

TITLE 5

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 5.02

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5.02.010 Registration Required.

(A) It shall be unlawful for any person, firm or corporation acting as a retailer, either as principal, agent or employee, to conduct, pursue, carry on or operate any calling, trade, profession or occupation in the City without first applying for and receiving a certificate of registration from the City of Olathe.

(B) For the purposes of this chapter, "Retailer" is defined as a person regularly engaged in the business of selling tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale. (Ord. 04-61 § 1, 2004.)

5.02.020 Registration Period, Duration.

(A) Retailers must register within thirty (30) days from their first business day.

(B) Registration shall commence and endure as long as the retailer's business remains open in the City of Olathe and the information submitted by the applicant to the City of Olathe remains unchanged. Any changes from the submitted application will require the retailer to submit a new application within thirty (30) days of the change.

(C) The City of Olathe shall issue a certificate of registration for each registered business. This certificate shall be posted in a prominent visible location in each business at all times. (Ord. 04-61 § 1, 2004.)

5.02.030 Registration Not Assignable; Unlawful Use. No registration granted under the provisions of this chapter shall be assigned or transferred. Each registration is only valid for the person and business named in the registration. (Ord. 04-61 § 1, 2004.)

5.02.040 Application; Issuance of License.

(A) Each registration application shall be made to the City of Olathe in writing on a form provided by the City of Olathe, or as otherwise allowed by the City of Olathe.

(B) Each application will contain, but is not limited to, the following information:

- (1) Type of business, including whether a franchise, independently owned or home based;
- (2) Legal name and common name of business;
- (3) Business, street, mailing and e-mail addresses; telephone number; and website URL;
- (4) Date business started;
- (5) Name, mailing address and contact telephone number of each owner, partner or corporate officer;

- (6) Corporate address, contact name and telephone number (if any);
- (7) An after hour (emergency) contact name and telephone number;
- (8) Federal Income Tax Number, Federal Employer Identification Number; and Kansas State Tax Account Number;
- (9) The numbers of any federal, state or county licenses or certificates held;
- (10) Approximate number of full time and part time employees;
- (11) Anticipated sales tax filing frequency.

(C) Changes to information submitted are to be reported as soon as possible and shall be done at no charge to the registrant.

(D) Information provided on this application may be forwarded to the Kansas Department of Revenue for purpose of verifying compliance with the provisions of the Kansas Retailers' Sales Tax Act, K.S.A. 79-3601 et seq., as amended. Such information shall be subject to the confidentiality provisions set forth in K.S.A. 79-3614.

(E) If all required information is supplied and it does not appear that any state law or City ordinance will be violated in the operation of the business, the license shall be issued. (Ord. 04-61 § 1, 2004.)

5.02.050 PENALTY. Any business in violation of this chapter shall be fined not less than Twenty-Five Dollars (\$25.00) and not more than Seven Hundred Fifty Dollars (\$750.00) for each offense. Each day that a retailer operates without a valid certificate of registration shall be considered a separate offense. (Ord. 04-61 § 1, 2004.)

5.02.060 SCOPE. The provisions of this ordinance apply to all retailers' registration of the City, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply. (Ord. 04-61 § 1, 2004.)

5.02.070 SEVERABILITY. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. (Ord. 04-61 § 1, 2004.)

CHAPTER 5.04. Business Licenses. Repealed 12/6/94. (Prior Code § 5-101; Prior Code § 5-102; Prior Code § 5-104; Prior Code § 5-105.)

CHAPTER 5.05. Formerly known as "Amusement Enterprise License." Repealed 12/6/94. (Ord. 464, 1976.)

CHAPTER 5.05

SPECIAL EVENT PERMIT

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5.05.040	Fees.
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5.05.060	Clean-Up.
5.05.070	Additional Parade Regulations.
5.05.080	Rules and Regulations.
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5.05.010 Unlawful to Operate Without Permit. It shall be unlawful for any person to use the streets, or other public places, including sidewalks, City owned parking lots and parks, for any special event, without first obtaining a permit as described in this Chapter. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.020 Definitions.

"Special Event" shall mean the use of any public street, public right of way, park or other public facilities which is owned or operated by the City, for events including (but not limited to) sporting events, music festivals, pageants, reenactments, regattas, entertainment, public assemblies, demonstrations, and other activities which would require a closure or limitation of some or all of said facilities for the uses to which they are generally available.

"Not for profit organization" as referred to this Chapter shall mean any organization recognized by the Internal Revenue Service (IRS) as an exempt organization by Internal Revenue Code ("I.R.C.") Section 501(c).

"Operator" shall mean a person, association of persons, corporation or the agent of the same who owns, controls or has the duty to control the operation of a circus, carnival, sideshow, rodeo, wild west show, animal show, or other similar activities.

"Profit organization" as referred to in this Chapter shall mean any individual or organization not meeting the criteria of I.R.C. Section 501(c).

"Sponsoring agency" shall mean any profit or non-profit organization which is sponsoring a special event. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 1, 2010; Ord. 94-88 § 2, 1994.)

5.05.030 Issuance of Permit. No special event that is to be conducted on public property shall commence operation, or operate, within the City before an approved special event permit has been issued by the City Clerk or designee. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 2, 2010; Ord. 94-88 § 2, 1994.)

5.05.040 Fees. Upon the filing of an application, the operator or the sponsoring agency shall pay the City Clerk the required fees. The fees shall be adopted by the Governing Body of the City by resolution. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.050 Suspension and Revocation of Permit. The City Manager or designee, upon notice, shall revoke or suspend a permit for any one of the following reasons:

A. If the permit holder has fraudulently obtained the license by giving false information in the application.

B. If the permit holder has violated any of the provisions of this Chapter or any requirement, rule or regulation promulgated under the authority of this Chapter.

C. If the permit holder has become ineligible to obtain a permit under this Chapter.

D. If it has been shown in any competent court of law probable cause leading to formal charges, or indictment by a grand jury, of the operator or manager for any felony offense or any offense described in this Chapter, the permit shall be suspended. The suspension shall be lifted upon dismissal of such charges, acquittal in a court of law, or, in the case of a manager, upon the installation of a new manager who meets the requirements of licensure under this Chapter.

E. If the operator of the event is convicted of any felony offense or any offense described in this Chapter, the permit shall be revoked. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.060 Clean-Up. The operator or sponsoring agency shall clean and restore the location where the special event operates to the condition which existed thereon prior to the occurrence of the event. Upon failure to do so the City shall proceed to clean up the location and bill the operator or sponsoring agency for the costs. The City may file a civil action in the Johnson County District Court to collect unpaid costs, but the filing of such action shall not prevent the filing of an action in the Municipal Court for violation of this section. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.070 Additional Parade Regulations.

A. The parade chairman or other person heading or leading such activity shall carry the special event permit upon his person during the conduct of the parade and shall be responsible for moving the parade from its point of origin to its point of termination expeditiously and without unreasonable delays in route.

B. It shall be unlawful for any person to unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

C. It shall be unlawful for any driver of any vehicle to drive a vehicle between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade; provided, however, that this provision shall not apply to police, fire or ambulance vehicles when engaged in police, fire or ambulance functions.

D. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street, or part thereof constituting a part of the route of a parade and to post signs to such effect. It shall be unlawful for any person to remove the signs before the event is completed. It shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

E. It shall be unlawful for any person to engage in, participate in, aid, form, or start any parade without first obtaining a permit therefor as provided for herein, or who shall otherwise violate any of the provisions of this Chapter. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.080 Rules and Regulations. The City Manager is hereby authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions or the intent of this Chapter. Any dispute over the interpretation and application of such rules and regulations may be appealed to the City Manager. The decision of the City Manager regarding such policy appeal is final. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 6, 2010; Ord. 94-88 § 2, 1994.)

5.05.090 Penalty for Violations – Actions. The violation of any of the provisions of this Chapter is a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00); and the City of Olathe, Kansas, shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this Chapter; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the set-up, erection, construction, reconstruction, alteration, maintenance or use of a special event, or to correct or abate such violations. Each and every day any violation of this Chapter continues shall constitute a separate offense. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

Repealed sections of Chapter 5.05 pertaining to Special Event Permit are available in Ordinance No. 10-69 and 94-88.

CHAPTER 5.08. Alcoholic Liquor. Repealed -- See Chapter 7. (Ord. 87-139; Prior Code § 3-101.)

CHAPTER 5.10

WAREHOUSE ENTERTAINMENT CLUBS

Sections:

- 5.10.010 Definitions
- 5.10.020 Authority; Findings; Purpose; Intent
- 5.10.030 License Required
- 5.10.040 Exemptions from License
- 5.10.050 License Application
- 5.10.060 Procedures for Issuance or Denial of License
- 5.10.070 License Fee
- 5.10.080 License Renewal
- 5.10.090 Operating Rules and Regulations
- 5.10.100 Access by Police Officers
- 5.10.110 Checking the Age of Patrons
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- 5.10.130 Grounds for Suspension or Revocation
- 5.10.140 Chief of Police Authority Where There Is Immediate Threat to Public Safety
- 5.10.150 Private Entertainment Event
- 5.10.160 Applicability to Existing Businesses
- 5.10.170 Conflict
- 5.10.180 Construction of Chapter
- 5.10.190 Penalty
- 5.10.200 Public Nuisance - Abatement

5.10.010 Definitions. As used in this chapter, the words and phrases defined in this section shall have the following meanings.

A. "Club premises" means any place where an entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.

B. "Entertainment" means a single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which patrons are invited or allowed to watch, listen, or participate, and is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

1. Presentations by single or multiple performers, such as musical song and dance acts, plays, concerts, demonstrations of talent, shows, reviews and other such activities;
2. Dancing to live or recorded music;
3. Prerecorded music played on equipment which is operated by an agent or contractor, commonly known as "DJ" or "disc jockey."

C. "Loiter" means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling, sauntering and prowling.

D. "Patron(s)" means a member or members of the public who enter an entertainment club, except:

1. Any agent, owner, employee or contractor of a warehouse entertainment club. Any person who indirectly or directly receives anything of value in exchange for his or her services rendered on behalf of such establishment shall be considered an "employee" hereunder;
2. Any agent or representative of any governmental entity of any description whatsoever, including ad hoc boards, task forces, and commissions, provided that such agent or representative enters an establishment acting in his or her official capacity on behalf of said governmental entity;
3. Persons who perform or conduct entertainment at warehouse entertainment clubs.

E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

F. "Photo identification" means a valid driver's license or photo identification issued by the person's state of residence or current school identification card showing the age of the person.

G. "Probable cause" means reasonable grounds for belief in the existence of facts warranting proceedings to suspend or revoke a license.

H. "Private entertainment event" means any music, singing, dancing or other similar entertainment event, or series of events, which is not open to the public, but is conducted in a warehouse entertainment club.

I. "Specified anatomical areas" shall be defined as in Section 9.13.020(2)(b) of this Municipal Code.

J. "Specified sexual activities" shall be defined as in Section 9.13.020(2)(a) of this Municipal Code.

K. “Warehouse entertainment club” means a commercial premise offering entertainment to patrons with a maximum occupancy load exceeding 350 people. Maximum occupancy shall be determined by the Director of Development Services by consulting the City’s building codes, fire and life safety codes, and the Unified Development Ordinance. (Ord. 01-41 § 1, 2001.)

5.10.020 Authority; Findings; Purpose; Intent.

A. Authority: This chapter is created pursuant to Article 12, Section 5 of the Constitution of the State of Kansas.

B. Findings: The City Council of the City of Olathe encourages the development of art and culture and recognizes that many entertainment venues provide a means for such development. The City Council further recognizes that the variety of entertainment venues in the City provide a rich and diverse cultural experience for the residents of the City and visitors to the City.

The City Council finds that the operations of warehouse entertainment clubs present an environment with a demonstrated potential for:

1. Increased criminal activities including, but not limited to: loitering; littering; disorderly conduct; possession and or sale of controlled substances; assaults; batteries; homicides; violation of liquor laws; and sexual misconduct.
2. Public nuisances including, but not limited to: excessive noise, litter and trash, damage to parking lot islands and landscaping, traffic congestion, and fire lane/emergency access obstruction.
3. The need for increased police presence to keep the public peace, including the calling of other police agencies in Johnson County for help in quelling disturbances.
4. Increased public expenditures in keeping the public peace.

C. Purpose: It is the purpose of this chapter to regulate the operations of warehouse entertainment clubs for the public safety. All licensees will be held responsible for controlling patrons conduct in and around the clubs, making adequate provisions for security and crowd control, protecting the City’s youth from criminal activity and minimizing disturbances as a result of the operation of the establishment.

D. Intent: It is the intent of this chapter to provide options regulating the variety of businesses and events which provide entertainment. The City Council finds that the imposition of conditions tailored to the particular establishment will allow the business to flourish while meeting the City’s public safety needs and avoiding unnecessary conditions on existing businesses or organizations which would change the mode of operations of a law-abiding business or organization with a history of compliance with the City laws. (Ord. 14-41 § 1, 2014; Ord. 01-41 § 1, 2001.)

5.10.030 License Required. It is unlawful and prohibited for any person to own, lease, operate, manage or maintain a warehouse entertainment club, in the City without first obtaining a warehouse entertainment club license from the City. (Ord. 01-41 § 1, 2001.)

5.10.040 Exemptions from License. The following types of entertainment and events are exempt from the license required by this chapter. This exemption does not relieve any of the establishments from complying with all other applicable laws, including the laws related to noise levels.

A. Entertainment sponsored by any agency of the City of Olathe, the County of Johnson County, the various Boards of Education, or of any other political subdivision of the State of Kansas;

B. A teen entertainment club licensed under the provisions of Chapter 5.15 of the Olathe Municipal Code;

C. Entertainment in a full service restaurant or bar limited to the use of a radio, music recording machine, juke box, television, video games, video programs, or recorded music which is incidental to the primary function of serving food or drink;

D. Entertainment provided for members and their guests at a Class A private club licensed under K.S.A. 41-2037 having an established membership when admission is not open to the public;

E. Entertainment provided for invited guests at a private event such as a wedding reception, banquet, or celebration where there is no admission charge;

F. Entertainment conducted in connection with a regularly established recreation or theme park;

G. Entertainment conducted or sponsored by any bona fide club, organization, society or association which is exempt from taxation pursuant to Internal Revenue Code section 501(c)(3), when all proceeds, if any arising from such entertainment are used exclusively for the benevolent purposes of such club, society or association;

H. Performances by the students at public or private institutions where such performances are part of an educational or instructional curriculum or program;

I. Theaters where patrons sit in parallel rows of fixed seats, comedy clubs and dinner theaters;

J. Motion picture theaters not providing live entertainment;

K. Dance lessons, theatrical and performing arts lessons;

L. Book readings, book signings, poetry recitations, and any other similar entertainment consisting of the spoken word, including plays;

M. Fund-raisers for a political cause;

N. Entertainment consisting of ambient or incidental music provided for the guests by musicians such as a piano player, harpist, strolling violinist, mariachi band, guitarist or band. If there is an admission charge, required to observe such entertainment, it will not be considered incidental.

O. Pool hall, billiard hall or bowling alley that does not provide space for dancing. (Ord. 01-41 § 1, 2001.)

5.10.050 License Application. A verified application for a license to operate a warehouse entertainment club shall be made by the applicant to the City Clerk on a form provided by the City Clerk and shall contain, but not be limited to the following information:

A. The name and address of the applicant;

B. The address and legal description of the place for which the license is desired;

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 300 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing;

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant;

E. The name and address of all employees who will be employed on the premises, if known;

F. A statement by which the applicant consents and agrees that any member of the Police Department or Fire Department, code enforcement inspectors, building inspectors, health inspectors or other officer of the City or state of Kansas may enter and inspect any part of such premises including the locked portions thereof;

G. A statement authorizing any governmental agency to provide the City with any information pertinent to the application;

H. A written management plan consisting of:

1. A plan to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that ages of patrons admitted to the club will be monitored;

2. An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, exterior parking lot security provision, emergency access for fire, police and ambulance. The plan shall utilize the exterior site and interior building plans to show exit routes, areas for refuge and emergency exits.

3. In addition to the requirements of subsection C above, the licensee shall provide a floor plan graphically depicting: the dimensions of the interior location, the dimension of any dance floor, the seating arrangements, the location of any food service area, exit dimensions, number of exits, the location of the fire alarm system and sprinkler system.

I. A statement declaring whether the applicant desires to operate a teen club on the premises as defined in Chapter 5.15 of the Olathe Municipal Code and a statement of the proposed schedule of operating hours and days. (Ord. 01-41 § 1, 2001.)

5.10.060 Procedures for Issuance or Denial of License. After receiving a complete application for a warehouse entertainment club license, as specified in Section 5.10.050, the City shall follow the following procedures:

A. Upon receipt of an application, the City Clerk shall send one copy of the application immediately to the Police Chief for investigation of the applicant. It shall be the duty of the Police Chief to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Police Chief shall report to the City Clerk no later than twenty (20) working days subsequent to the receipt of such application. Such report may recommend that conditions be placed on the license. The City Clerk shall schedule the application for consideration by the Governing Body at the earliest convenient meeting date. The Governing Body shall consider the report of the Police Chief and shall issue or deny the license within thirty (30) working days after the date on which the application was considered unless the applicant agrees to an extension of said time period in writing.

B. A license shall be denied by the Governing Body on one or more of the following grounds:

1. If the business premises do not comply with all applicable regulatory codes, laws and statutes of the City, of Johnson County Kansas or the State of Kansas;

2. If the application is incomplete or if it contains any material misrepresentation;

3. If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, the monitoring of the ages of patrons admitted to the club and an emergency management plan.

4. To any applicant who has been convicted or diverted of a felony, or, during the immediate preceding five years has been convicted or diverted of any of the following:

(a) Prostitution;

(b) Promotion of prostitution;

- (c) Public lewdness;
- (d) Gambling;
- (e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
- (f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Carrying a concealed weapon;
- (i) Disorderly conduct;
- (j) Battery;
- (k) A violation of this chapter.

5. To any applicant whose employee or manager has been convicted or diverted of a felony, or, during the immediate preceding five years, has been convicted or diverted of the following:

- (a) Prostitution;
- (b) Promotion of prostitution;
- (c) Public lewdness;
- (d) Gambling;
- (e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
- (f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Carrying a concealed weapon;
- (i) Disorderly conduct;
- (j) Battery;
- (k) A violation of this chapter.

6. To a partnership, unless all the members are qualified individually;

7. To a corporation, if any corporation officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license;

8. To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;

9. If the proposed location of a club is within 1,000 feet of an existing warehouse entertainment club.

10. No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted a warehouse entertainment club license within the City for a period of twelve (12) months following the date of revocation.

C. No license to operate a warehouse entertainment club shall be issued until notice has been given by the applicant by certified mail, return receipt requested, to all property owners and to all parties in possession of real property within 300 feet of the club premises as described in the application at least ten (10) days prior to the Governing Body hearing.

D. The Governing Body may impose such conditions on the issuance of the license which are necessary to protect the public health, safety and welfare. Conditions shall be based upon specific and articulable facts reasonably related to insuring public health and safety, including but not limited to, the protection of minors from alcohol and other criminal activity, prevention of public nuisances, enhancement of fire protection, traffic control, crowd control, security lighting and emergency access.

Such conditions are only subject to change at (1) the time of renewal of the license, (2) after a hearing requested in writing by the applicant to modify the conditions, or (3) after ten (10) days written notice to the applicant and a hearing by the Governing Body to consider additional or modified conditions designed to protect the public health and safety. (Ord. 01-41 § 1, 2001.)

5.10.070 License Fee. An annual license fee shall be paid for each license that is issued pursuant to this chapter. Such license fee shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made. There shall be no refund in any case when the licensee quits business prior to the end of the year. No license shall be transferable.

If any person required to pay a license fee shall fail or refuse to pay his license fee for any year, he shall not be granted a license for the current year until such delinquent license has been paid in addition to the current fee required. (Ord. 02-121 § 1, 2002; Ord. 01-41 § 1, 2001.)

5.10.080 License Term; Renewal.

A. The term of a warehouse entertainment club license shall be one year from issuance.

B. The license for a warehouse entertainment club shall be renewed in the same manner as for an original application. (Ord. 01-41 § 1, 2001.)

5.10.090 Operating Rules and Regulations.

A. The following operating rules and regulations shall apply to all warehouse entertainment clubs in the City:

1. The standards of conduct applicable to all businesses in the City, as specified in the Olathe Municipal Code, the Unified Development Ordinance, and any other building or safety codes shall apply to warehouse entertainment clubs.
2. It shall be the obligation of the licensee to insure that no controlled substances are offered for sale or consumed on the club premises.
3. It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.
4. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public.
5. It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any patrons of the club on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.
6. It shall be the obligation of the licensee to clean up all litter on the premises resulting from club operations.
7. No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the club unless that person pays a readmission fee equal to the original price of admission.
8. No licensee shall feature or permit dancers, entertainers, employee, or any other person or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.
9. All persons shall be admitted to a warehouse entertainment club through a single entrance so that occupancy load can be monitored by the licensee.
10. No warehouse entertainment club shall be established within 1,000 feet of another licensed warehouse entertainment club.
11. Security guards.

- (a) A minimum of two security persons shall be required for up to the first 50 persons in attendance.
- (b) In addition to the minimum two security persons, one additional security person for each additional 50 persons in attendance shall be required.
- (c) "Qualified security personnel" means any person who works for:
 - (1) A private police organization as defined in Chapter 5.40; and
 - (2) Is 21 years of age or older; and
 - (3) Is uniformed when working.

12. No warehouse entertainment clubs may operate between the hours of 2:00 a.m. and 9:00 a.m.

13. The licensee shall control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct upon the premises and within one hundred (100) feet of the premises. The 100-foot distance shall be measured in a straight line from the property line of the licensed premises.

14. The licensee shall cause the orderly dispersal of individuals from the vicinity of the club at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.

15. The licensee shall make reasonable efforts to prevent the admission of any person whose conduct is described in Section 9.11.010 of the code (disorderly conduct) on the premises or on any parking lot or similar facility used by the club. The licensee shall make reasonable efforts to remove persons exhibiting such conduct from the premises.

16. The licensee shall be responsible to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each entertainment event as is necessary in order to maintain order and insure compliance with all applicable federal, state and city law and ordinances.

B. Additional operating rules and regulations for teen entertainment clubs.

1. A warehouse entertainment club licensee may operate a teen entertainment club on the premises of a warehouse entertainment club upon compliance with the provisions of Chapter 5.15 of the Olathe Municipal Code and payment of an additional license fee. Such fee shall be adopted by the Governing Body of the City by resolution.

2. A licensee may not operate a teen entertainment club at the same time that the licensee is operating as a warehouse entertainment club. When the licensee is operating as a warehouse entertainment club, no person under the age of 21 shall be permitted to enter or remain in the club unless accompanied by a parent or legal guardian, except for bona fide employees or entertainers hired by the licensee to work in the club.

3. The operating standards found in Chapter 5.15 for teen entertainment clubs shall apply to the days a warehouse entertainment club is operating as a teen entertainment club.

4. A 3 foot by 3 foot sign shall be clearly posted at the entrance notifying the public that the premises is operating as a teen club. (Ord. 02-121 § 2, 2002; Ord. 01-41 § 1, 2001.)

5.10.100 Access by Law Enforcement Officers. All law enforcement officers and any other officials of the City shall have free access to all warehouse entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 01-41 § 1, 2001.)

5.10.110 Checking the Age of Patrons.

A. It is the responsibility of the licensee to require photo identification, showing the age of each person admitted to a warehouse entertainment club. It shall be unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of a warehouse entertainment club in violation of the provisions of this chapter.

B. It shall be unlawful for any person for the purpose of obtaining admission to, or remain at, a warehouse entertainment club to misrepresent his or her:

1. Age;
2. Authority as a licensee or employee of such warehouse entertainment club;
3. Authority as a parent or guardian of a person in such warehouse entertainment club;
4. Authority as a governmental employee engaged in the performance of his or her duties.

C. It shall be unlawful for any person on the premises to not provide identification to law enforcement officers to include name, age and address. (Ord. 01-41 § 1, 2001.)

5.10.120 Procedure for Suspension or Revocation of Licenses. Whenever the Chief of Police determines that there is probable cause for suspending or revoking a warehouse entertainment club license, the Chief of Police shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received seven (7) working days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The grounds for suspension and revocation are found in Section 5.10.130. The notice shall also specify that a hearing shall be conducted by the City Manager for a license suspension or by the Governing Body for a license revocation at a time and date denominated in the notice, nor more than thirty (30) days thereafter, to determine whether or not the license shall be suspended or revoked. The notice shall be mailed to the licensee at least five (5) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision to suspend or revoke shall be final. (Ord. 01-41 § 1, 2001.)

5.10.130 Grounds for Suspension or Revocation.

A. The City Manager or his designee may, after notice and hearing as required in Section 5.10.120, suspend a warehouse entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

1. Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances which relates to or affects public health or safety on the warehouse entertainment club premises;
2. Failed to comply with the operating rules and regulations of warehouse entertainment clubs specified in Section 5.10.090.

B. The Governing Body may, after notice and hearing as required in Section 5.10.120, revoke a warehouse entertainment club license on any one or more of the following grounds:

1. Whenever the City learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the warehouse entertainment club license or any renewal thereof;
2. Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;
3. Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance, including the liquor laws of the state of Kansas or this City;
4. Whenever operation of the warehouse entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.
5. Whenever licensee knowingly employs persons in violation of the licensing standards of this chapter;
6. Whenever licensee fails to cooperate with City officials in the conduct of their enforcement and inspection duties.

No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted an entertainment club license within the City for a period of twelve (12) months following the date of revocation. (Ord. 01-41 § 1, 2001.)

5.10.140 Chief of Police Authority Where There Is Immediate Threat to Public Safety.

A. The Chief of Police, or his designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or his designee, under authority of Section 5.10.140 A. (Ord. 01-41 § 1, 2001.)

5.10.150 Private Entertainment Event.

A. It shall be unlawful and prohibited for any person to authorize or conduct a private entertainment event in a licensed warehouse entertainment club without registering with the City Clerk and paying the registration fee. Such fee shall be adopted by the Governing Body of the City by resolution.

B. Registration forms may be obtained from the City Clerk.

C. The operating rules and regulations of Section 5.10.090 shall apply to private entertainment events.

D. All police officers of the City and the state of Kansas shall have free access to such private entertainment events for the purpose of inspection and enforce compliance with the ordinances of the City and the laws of the state of Kansas. (Ord. 02-121 § 3, 2002; Ord. 01-41 § 1, 2001.)

5.10.160 Applicability to Existing Businesses. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the activities described in this chapter were established before or after the effective date of the ordinance codified in this chapter. All existing businesses must be in compliance with this chapter by January 1, 2002. (Ord. 01-41 § 1, 2001.)

5.10.170 Conflict. In the event of a conflict between this chapter and any other chapter of the Olathe Municipal Code, the provisions of this chapter shall apply. (Ord. 01-41 § 1, 2001.)

5.10.180 Construction of Chapter. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. (Ord. 01-41 § 1, 2001.)

5.10.190 Penalty. Any person convicted of a violation of this chapter shall be fined not more than \$1,000 or imprisoned for more than six months, or by both such fine and imprisonment in addition to any action taken pursuant to Section 5.10.120. (Ord. 01-41 § 1, 2001.)

5.10.200 Public Nuisance – Abatement. Any business establishment providing entertainment maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal and injunction thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment where entertainment is provided contrary to the provisions of this chapter. (Ord. 01-41 § 1, 2001.)

CHAPTER 5.15

TEEN ENTERTAINMENT CLUBS

Sections:

5.15.010	Definitions
5.15.020	License Required
5.15.030	Exemptions from License
5.15.040	License Application
5.15.050	Procedures for Issuance or Denial of License
5.15.060	License Fee
5.15.070	License Term; Renewal
5.15.080	Operating Rules and Regulations
5.15.090	Alcohol and Tobacco Prohibited
5.15.100	Access by Law Enforcement Officers
5.15.110	Posting
5.15.120	Maximum Occupancy
5.15.130	Procedures for Suspension or Revocation of Licenses
5.15.140	Grounds for Suspension or Revocation
5.15.150	Chief of Police Authority Where There Is Immediate Threat to Public Safety
5.15.160	Applicability to Existing Businesses
5.15.170	Conflict
5.15.180	Construction of Chapter
5.15.190	Penalty
5.15.200	Public Nuisance - Abatement

5.15.010 Definitions. As used in this Ordinance, the words and phrases defined in this section shall have the following meanings.

A. "Entertainment" means a single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which persons are invited or allowed to watch, listen, or participate, and is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

1. Presentations by single or multiple performers, such as musical song and dance acts, plays, concerts, demonstrations of talent, shows, reviews and other such activities;
2. Dancing to live or recorded music;
3. Prerecorded music played on equipment which is operated by an agent or contractor, commonly known as "DJ" or "disc jockey."

B. "License" means a permit to operate a teen entertainment club.

C. "Licensee" means the person to whom the license required under this ordinance is issued as well as any manager, agent or employee of such person at the licensed place of business.

D. "Loiter" means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling, sauntering and prowling.

E. "Probable cause" means reasonable grounds for belief in the existence of facts warranting proceeding to suspend or revoke a license.

F. "Public school" means the Olathe Public School system.

G. "Specified anatomical areas" shall be defined as in Section 9.13.020(2)(b) of this Municipal Code.

H. "Specified sexual activities" shall be defined as in Section 9.13.020(2)(a) of this Municipal Code.

I. "Teen" means a person 14 years of age through 20 years of age.

J. "Teen entertainment club" means any place primarily attended by teens, to participate in dancing or listening to recorded music, or entertainment, whether admission thereto is by a set admission charge, by the donation of money, or no charge at all.

K. "Teen entertainment club premises" means any place where a teen entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours. (Ord. 01-42 § 1, 2001.)

5.15.020 License Required. It is unlawful and prohibited for any person to operate a teen entertainment club within the City without having in such person's possession a valid teen entertainment club license for the place of business issued by the City. (Ord. 01-42 § 1, 2001.)

5.15.030 Exemptions from License. The following activities do not require a license pursuant to this Chapter:

- A. Entertainment conducted at a private residence from which the general public is excluded;
- B. Entertainment conducted at or sponsored by a public or private elementary school, secondary school, college, or university;
- C. Entertainment conducted at a religious or fraternal organization;
- D. Entertainment conducted at a place owned by the federal, state or local government. (Ord. 01-42 § 1, 2001.)

5.15.040 License Application. A verified application for a license to operate a teen entertainment club shall be made by the applicant to the City Clerk on a form provided by the City Clerk and shall contain, but not be limited to the following information:

- A. The name and address of the applicant;
- B. The address and legal description of the place for which the license is desired;
- C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 300 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing;
- D. The name of the owner of the premises upon which the place of business is located, if different from the applicant;
- E. The name and address of all employees who will be employed on the premises, if known;

F. A statement by which the applicant consents and agrees that any member of the Police Department or Fire Department, code enforcement inspectors, building inspectors, health inspectors or other officer of the City or state of Kansas may enter and inspect any part of such premises including the locked portions thereof;

G. A statement authorizing any governmental agency to provide the City with any information pertinent to the application;

H. A written management plan consisting of:

1. A plan to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that ages of patrons admitted to the teen entertainment club will be monitored;

2. An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, exterior parking lot security provision, emergency access for fire, police and ambulance. The plan shall utilize the exterior site and interior building plans to show exit routes, areas for refuge and emergency exits.

3. In addition to the requirements of subsection C above, the licensee shall provide a floor plan graphically depicting: the dimensions of the interior location, the dimension of any dance floor, the seating arrangements, the location of any food service area, exit dimensions, number of exits, the location of the fire alarm system and sprinkler system. (Ord. 01-42 § 1, 2001.)

5.15.050 Procedures for Issuance or Denial of License. After receiving a complete application for a teen entertainment club license, as specified in Section 5.15.040, the City shall follow the following procedures:

A. Upon receipt of an application, the City Clerk shall send one copy of the application immediately to the Police Chief for investigation of the applicant. It shall be the duty of the Police Chief to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Police Chief shall report to the City Clerk no later than twenty (20) working days subsequent to the receipt of such application. Such report may recommend that conditions be placed on the license. The City Clerk shall schedule the application for consideration by the Governing Body at the earliest convenient meeting date. The Governing Body shall consider the report of the Police Chief and shall issue or deny the license within thirty (30) working days after the date on which the application was considered unless the applicant agrees to an extension of said time period in writing.

B. A license shall be denied by the Governing Body on one or more of the following grounds:

1. If the business premises do not comply with all applicable regulatory codes, laws and statutes of the City, of Johnson County Kansas or the State of Kansas;

2. If the application is incomplete or if it contains any material misrepresentation;

3. If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, the monitoring of the ages of patrons admitted to the club and an emergency management plan.

4. To any applicant who has been convicted or diverted of a felony, or, during the immediate preceding five years has been convicted or diverted of any of the following:

(a) Prostitution;

(b) Promotion of prostitution;

(c) Public lewdness;

(d) Gambling;

(e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;

(f) Violation of the liquor laws of the City, the state of Kansas, or any other governmental agency;

- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Disorderly conduct;
- (i) Battery;
- (j) A violation of this chapter.

5. To any applicant whose employee or manager has been convicted or diverted of a felony, or, during the immediate preceding five years, has been convicted or diverted of the following:

- (a) Prostitution;
- (b) Promotion of prostitution;
- (c) Public lewdness;
- (d) Gambling;
- (e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
- (f) Violation of the liquor laws of the City, the state of Kansas, or any other governmental agency;
- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Disorderly conduct;
- (i) Battery;
- (j) A violation of this chapter.

6. To a partnership, unless all the members are qualified individually;

7. To a corporation, if any corporation officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license;

8. To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;

9. If the proposed location of a club is within 1,000 feet of an existing teen entertainment club;

10. No person defined herein who has a proprietary interest in a teen entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted a teen entertainment club license within the City for a period of twelve (12) months following the date of revocation.

C. No license to operate a teen entertainment club shall be issued until notice has been given by the applicant by certified mail, return receipt requested, to all property owners and to all parties in possession of real property within 300 feet of the teen entertainment club premises as described in the application at least ten (10) days prior to the Governing Body hearing.

D. The Governing Body may impose such conditions on the issuance of the license which are necessary to protect the public health, safety and welfare. Conditions shall be based upon specific and articulable facts reasonably related to insuring public health and safety, including but not limited to, the protection of minors from alcohol and other criminal activity, prevention of public nuisances, enhancement of fire protection, traffic control, crowd control, security lighting and emergency access. Such conditions are only subject to change at (1) the time of renewal of the license, (2) after a hearing requested in writing by the applicant to modify the conditions, or (3) after ten (10) days written notice to the applicant and a hearing by the Governing Body to consider additional or modified conditions designed to protect the public health and safety. (Ord. 14-41 § 2, 2014; Ord. 01-42 § 1, 2001.)

5.15.060 License Fee. An annual license fee shall be paid for each license that is issued pursuant to this chapter. Such license fee shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made. There shall be no refund in any case when the licensee quits business prior to the end of the year. No license shall be transferable.

If any person required to pay a license fee shall fail or refuse to pay his license fee for any year, he shall not be granted a license for the current year until such delinquent license has been paid in addition to the current fee required.

If any person required to pay a license fee shall fail or refuse to pay the same for any year as herein provided for, such fee may be collected by the City in a proper action brought for the purpose. This remedy is cumulative and not exclusive. (Ord. 02-122 § 1, 2002; Ord. 01-42 § 1, 2001.)

5.15.070 License Term; Renewal.

A. The term of a teen entertainment club license shall be one year from issuance.

B. The license for a teen entertainment club shall be renewed in the same manner as for an original application. (Ord. 01-42 § 1, 2001.)

5.15.080 Operating Rules and Regulations.

A. The following operating rules and regulations shall apply to all teen entertainment clubs in the City:

1. The standards of conduct applicable to all businesses in the City, as specified in the Olathe Municipal Code, the Unified Development Ordinance, and any other building or safety codes shall apply to teen entertainment clubs.
2. It shall be the obligation of the licensee to insure that no controlled substances are offered for sale or consumed on the club premises.
3. It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.
4. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public.
5. It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any person on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.
6. It shall be the obligation of the licensee to clean up all litter on the premises resulting from club operations.
7. No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the teen entertainment club unless that person pays a readmission fee equal to the original price of admission.
8. No licensee shall feature or permit dancers, entertainers, employees, or any other person or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.
9. All persons shall be admitted to a teen entertainment club through a single entrance so that occupancy load can be monitored by the licensee.
10. No teen entertainment club shall be established within 1,000 feet of another licensed teen or warehouse entertainment club.
11. Security guards.

- (a) A minimum of two security persons shall be required for up to the first 50 persons in attendance.
- (b) In addition to the minimum two security persons, one additional security person for each additional 50 persons in attendance shall be required.
- (c) "Qualified security personnel" means any person who works for:
 - (1) A private police organization as defined in Chapter 5.40; and
 - (2) Is 21 years of age or older; and
 - (3) Is uniformed when working.

12. Teen entertainment clubs shall be open to business only during the following times.

(a) If school is in session, the hours of operation shall be:

- (1) 5:00 p.m. through 10:30 p.m. Monday through Thursday;
- (2) 5:00 p.m. on Friday through 12:00 a.m. on Saturday;
- (3) 1:00 p.m. Saturday through 12:00 a.m. on Sunday;
- (4) 1:00 p.m. through 10:30 p.m. on Sunday.

(b) If school is not in session, the hours of operation shall be 1:00 p.m. through 12:00 a.m. Monday through Sunday.

13. The licensee shall control the conduct of persons so as to prevent or minimize disorderly or unlawful conduct upon the premises and within one hundred (100) feet of the premises. The 100-foot distance shall be measured in a straight line from the property line of the licensed premises.

14. The licensee shall cause the orderly dispersal of individuals from the vicinity of the teen entertainment club at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.

15. The licensee shall make reasonable efforts to prevent the admission of any person whose conduct is described in Section 9.11.010 of the code (disorderly conduct) on the premises or on any parking lot or similar facility used by the club. The licensee shall make reasonable efforts to remove persons exhibiting such conduct from the premises.

16. The licensee shall be responsible to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each entertainment event as is necessary in order to maintain order and insure compliance with all applicable federal, state and city law and ordinances.

17. (a) Licensees may allow persons 14 years of age through 20 years of age to enter the teen entertainment club; provided, if a licensee allows persons 14 and 15 years of age to enter the teen entertainment club, they shall be prohibited from allowing persons 19 and 20 years of age from entertaining the teen entertainment club; provided further, if a licensee prohibits individuals 14 and 15 years of age from entering the teen entertainment club; they may allow persons 16 through 20 years of age to enter the teen entertainment club. Licensees are prohibited from allowing both 14 and 15 year old individuals and 19 and 20 year old individuals in the club at the same time. In addition, licensees must state on their application for license which age group they intend to serve. If during the license period a licensee desires to change the age group to be served, the licensee must first notify the City Clerk in writing of the change.

(b) In those teen entertainment clubs where the licensee has indicated on the license application that service will be to 14 through 18 year old individuals, no person under the age of 14 years of age or over the age of 18 years old may enter or remain on the premises. In those teen entertainment clubs, where the licensee has indicated on the license application that service will be to 16 through 20 year old individuals, no person under the age of 16 and no person over the age of 20 may enter or remain on the premises; provided that regardless of the age of the patrons selected by the licensee, parents or legal guardians of persons on the premises, employees, or licensees of the teen entertainment club and government officials conducting business may enter upon the premises.

(c) It is a violation of this chapter for any person for the purpose of gaining admittance to a teen entertainment club to falsely represent:

- (1) Their actual age;
- (2) Themselves to be a licensee or an employee of the teen entertainment club;
- (3) Themselves to be a parent or guardian of a person in a teen entertainment club;
- (4) Themselves to be a governmental employee in the performance of his/her duties.

(d) It shall be a violation of this chapter for a licensee not to check each person entering the licensed premises to insure by way of valid identification the person entering the teen entertainment club. Persons without identification shall be denied entrance to the premises.

(e) It shall be a violation of this chapter for any person on the premises, to include the parking areas, to not provide identification to law enforcement officers to include name, age and address. (Ord. 01-42 § 1, 2001.)

5.15.090 Alcohol and Tobacco Prohibited.

A. The possession of alcohol or cereal malt beverages is prohibited on the premises of any teen entertainment club and it shall be a violation of this chapter for any person to possess alcohol on the premises of a teen entertainment club or for a licensee to permit the possession of alcohol on the premises. Licensees shall physically check all handbags, purses, backpacks, book bags or hand carried clothing to insure no alcohol is brought into the premises.

B. There shall be no smoking permitted on the premises of a teen entertainment club. It shall be a violation of this chapter for any person to smoke on the premises of a teen entertainment club or for a licensee to permit smoking on the premises. (Ord. 01-42 § 1, 2001.)

5.15.100 Access by Law Enforcement Officers. All law enforcement officers and any other officials of the City shall have free access to all warehouse entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 01-42 § 1, 2001.)

5.15.110 Posting. Licensee shall post the age restrictions and the alcohol and tobacco prohibitions conspicuously upon the premises, preferably on the outside of the building adjacent to the main entrance. (Ord. 01-42 § 1, 2001.)

5.15.120 Maximum Occupancy. The interior of each teen entertainment club must have at least seven square feet of floor space for each person who is permitted therein by the occupancy load for the location, at least four square feet of which must be reserved exclusively for dancing, if dancing is permitted. The occupancy load shall be posted above each door and occupancy in excess of the posted load shall not be permitted. (Ord. 01-42 § 1, 2001.)

5.15.130 Procedures for Suspension or Revocation of Licenses. Whenever the Chief of Police determines that there is probable cause for suspending or revoking a teen entertainment club license, the Chief of Police shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received seven (7) working days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The grounds for suspension and revocation are found in Section 5.15.140. The notice shall also specify that a hearing shall be conducted by the City Manager for a license suspension or by the Governing Body for a license revocation at a time and date denominated in the notice, nor more than thirty (30) days thereafter, to determine whether or not the license shall be suspended or revoked. The notice shall be mailed to the licensee at least five (5) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision to suspend or revoke shall be final. (Ord. 01-42 § 1, 2001.)

5.15.140 Grounds for Suspension or Revocation.

A. The City Manager or his designee may, after notice and hearing as required in Section 5.15.130, suspend a teen entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

1. Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances which relates to or affects public health or safety on the teen entertainment club premises;
2. Failed to comply with the operating rules and regulations of teen entertainment clubs specified in Section 5.10.090.

B. The Governing Body may, after notice and hearing as required in Section 5.15.130, revoke a teen entertainment club license on any one or more of the following grounds:

1. Whenever the City learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the teen entertainment club license or any renewal thereof;
2. Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;
3. Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance, including the liquor laws of the state of Kansas or this City;
4. Whenever operation of the teen entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property;
5. Whenever licensee knowingly employs persons in violation of the licensing standards of this chapter;
6. Whenever licensee fails to cooperate with City officials in the conduct of their enforcement and inspection duties.

No person defined herein who has a proprietary interest in a teen entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted an entertainment club license within the City for a period of twelve (12) months following the date of revocation. (Ord. 01-42 § 1, 2001.)

5.15.150 Chief of Police Authority Where There Is Immediate Threat to Public Safety.

A. The Chief of Police, or his designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or his designee, under authority of Section 5.10.140 A. (Ord. 01-42 § 1, 2001.)

5.15.160 Applicability to Existing Businesses. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the activities described in this chapter were established before or after the effective date of the ordinance codified in this chapter. All existing businesses must be in compliance with this chapter by January 1, 2002. (Ord. 01-42 § 1, 2001.)

5.15.170 Conflict. In the event of a conflict between this chapter and any other chapter of the Olathe Municipal Code, the provisions of this chapter shall apply. (Ord. 01-42 § 1, 2001.)

5.15.180 Construction of Chapter. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. (Ord. 01-42 § 1, 2001.)

5.15.190 Penalty. Any person convicted of a violation of this chapter shall be fined not more than \$1,000 or imprisoned for more than six months, or by both such fine and imprisonment in addition to any action taken pursuant to Section 5.15.120. (Ord. 01-42 § 1, 2001.)

5.15.200 Public Nuisance – Abatement. Any business establishment providing entertainment maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal and enjoinder thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment where entertainment is provided contrary to the provisions of this chapter. (Ord. 01-42 § 1, 2001.)

CHAPTER 5.17. Nude Entertainment at Private Clubs. Repealed – See Chapter 7. (Ord. 87-139; Ord. 529 § 2, 1976; Ord. 529 § 3, 1976; Ord. 529 § 4, 1976.)

CHAPTER 5.24

TAXICABS

Sections:

5.24.010	License Required.
5.24.020	License--Application for License.
5.24.030	Insurance.
5.24.040	License--Issuance.
5.24.050	License--Fee.
5.24.060	Participation in the Senior Citizen Program.
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5.24.200	Prohibition of Drivers.
5.24.205	Appeals.
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5.24.010 License Required. It is unlawful for any person, firm, or partnership or corporation to engage in the business or occupation of transporting or carrying passengers for hire by means of a taxicab within the city without having procured a license to do so from the City of Olathe, except that taxicabs that have current licenses to operate in a municipality within the Kansas City metropolitan area, may carry passengers into Olathe from points outside Olathe, without being required to be licensed by the City of Olathe. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2, 1980.)

5.24.020 License--Application for License. Any person, firm, partnership, or corporation seeking to secure a license from the City of Olathe, to transport passengers for hire shall make a written application to the City Clerk for such license and the application shall set forth the following:

(1) A full identification of the applicant and all persons to be directly or indirectly interested in the license if granted;

(2) The residence and business address and the citizenship of the applicant, and of all members of any firm or partnership, and of all officers and directors of any corporation applying;

(3) Whether or not the applicant or any of the persons to be interested in the license, if granted, have been convicted of the violation of any federal, state or municipal law;

(4) Whether or not any license issued to the applicant has been revoked, and if so, the circumstances of such revocation;

(5) The number of taxicabs proposed to be operated;

(6) A complete description of the taxicabs proposed to be operated and of the proposed operations;

(7) The color scheme, name and characteristic insignia to be used to designate the taxicabs of said applicant;

(8) The vehicles have been properly registered and bear proper state license tags.

(9) Such further information as the City Clerk may require. (Ord. 97-119 § 1, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.030 Insurance. The applicant shall file with the application a certificate of insurance certifying that the applicant has an automobile liability insurance policy insuring passengers and other persons against personal injuries and property damage. The policy shall be in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00) combined single limit, except that the policy for those companies that choose to participate in Olathe's taxi coupon program shall be in the amount of five hundred thousand dollars (\$500,000.00). (Ord. 96-58 § 2, 1996; Ord. 88-10 § 1, 1988; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.040 License--Issuance. The City Clerk shall issue a taxicab license except if the applicant has been convicted of felony, any crime involving moral turpitude, or driving a vehicle under the influence of intoxicating liquor and/or drugs, of reckless driving, driving while suspended or revoked within the last three (3) years or if the applicant's driver's license is suspended or revoked at the time of application. (Ord. 97-119 § 2, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.050 License--Fee.

(a) No license shall be granted to any person, firm or corporation until the applicant complies with the requirements of Section 5.24.020 through and including Section 5.24.050 and until the applicant pays a license fee.

(b) Such license fee shall be adopted by the Governing Body of the City by resolution.

(c) All licenses granted under the provisions of this chapter shall be for the period from January 1st until the following December 31. No license shall be granted for a fraction of a year. Renewal licenses shall be issued upon a showing that all the information required by this chapter is current and correct and all other requirements continue to be met. Licenses issued hereunder shall be nontransferable. (Ord. 02-123 § 1, 2002; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 86-69 § 2 (part), 1980.)

5.24.060 Participation in the Senior Citizen Program. Any person, firm, partnership or corporation granted a taxicab license under the provisions of this chapter that chooses to participate in the taxi coupon transportation services program will enter into an agreement with the city entitled "Agreement for Taxi Coupon Transportation Services." The agreement may be modified from time to time upon the approval of the Governing Body. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 81-188 § 1, 1981; Ord. 80-69 § 2 (part), 1980.)

5.24.070 Designation of Taxicabs.

(a) Any taxicab operated under a license issued pursuant to this chapter shall bear on the outside of each front or rear door in printed letters not less than two (2) inches in height or by a magnetic sign with letters not less than two (2) inches in height, the name and telephone number under which the taxicab is being operated.

(b) The outside of the taxicabs must be painted according to an identifying color scheme, and in addition may bear an identifying design. The designated color and design scheme shall be filed with the City Clerk; and

(c) No vehicle covered by the terms of this chapter shall be licensed whose name, color scheme, identifying design or insignia to be used thereon shall, in the opinion of the City Clerk, conflict with or imitate any name, color scheme, identifying design or insignia used on a vehicle or vehicles already operating under this chapter, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab thereunder, the name, color scheme, identifying design or insignia thereof is changed so as to be, in the opinion of the City Clerk, in conflict with or imitate the name color scheme, identifying design or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. (Ord. 97-119 § 3, 1997; Ord. 96-100 § 1, 1996; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.080 Taxicab License Stickers. The city clerk shall issue a suitable tag or sticker for each taxicab that is operated under the license issued in Section 5.24.040. Such tag or sticker shall be displayed in the lower left hand corner of the rear window on each taxicab while it is in use except that on vehicles equipped with electric rear window defrosters or equipped with one-way glass or adhesive film or other glaze or application on the rear window which inhibits or substantially impairs the ability to see into the vehicle through such window, such sticker shall be placed in the lower portion or the driver's side of the front windshield. (Ord. 96-58 § 2, 1996).

5.24.090 Cleanliness and Mechanical Condition of Vehicles.

(1) Every taxicab operated on the streets of the city shall be maintained in a clean and serviceable condition and in adequate repair.

(2) Any time the city has probable cause to believe that a vehicle that is licensed by the City of Olathe is not in acceptable mechanical condition and if it is found that an unsafe condition exists, that the condition be corrected. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.100 Additional Regulations. Every taxicab operated in the city shall be a four-door model automobile, with all doors fully operational. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986.)

5.24.110 Transfer of Taxicab Licenses. There shall be no transfers or assignments of taxicab licenses from one person or entity to another. A change in the stock ownership of ten percent or more of the outstanding stock, or any change in the corporate structure of a corporation holding a license hereunder, including a change effected by a merger, consolidation or reorganization shall require submission of a new application pursuant to 5.24.020 along with applicable license fees. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.120 Suspension and Revocation of License.

(1) A license issued under the provisions of this chapter may be revoked or suspended by the City Clerk if the holder thereof has:

- (a) Violated any of the provisions of this ordinance;
- (b) Discontinued operations for more than sixty (60) days;
- (c) Made any false statement as to a material matter in an application for a license, or license renewal;
- (d) Violated any ordinance of the City of Olathe or the laws of the United States or the State of Kansas, the violation of which reflect unfavorably on the fitness of the holder to offer public transportation;
- (e) Failed to keep in effect the insurance required by Section 5.24.030;
- (f) Been convicted of a felony, any crime involving moral turpitude, repeated violation of the traffic laws of the city or state, of driving a vehicle under the influence of intoxicating liquor or drugs, reckless driving, or of driving on a suspended or revoked licenses;
- (g) Has become ineligible for a license.

(2) Prior to suspension or revocation, the holder of the license shall be given notice of the proposed action to be taken and shall be given an opportunity to be heard. (Ord. 97-119 § 4, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.130 Application for Driver's Certificate.

(1) Filing. Every person desiring to drive a taxicab for a company that is licensed by the City of Olathe, shall file with the city clerk an application for a driver's certificate.

(2) Contents. The application for a taxicab driver's certificate shall be made upon a printed form to be provided by the city clerk and shall have printed thereon such questions as will elicit from the applicant his or her name, age, residence, height, color of eyes and hair, place and date of birth, length of residence in city, county, or state, whether a citizen of the United States, whether he or she has ever been convicted of a violation of a federal or state law or a city ordinance, whether he or she has a valid driver's license and if it has ever been suspended or revoked, whether he or she has ever been authorized by any city or state as a taxicab driver, and if so, where and whether such authority was ever revoked, and if revoked, the cause thereof, and such other information as may be deemed proper. Each application shall be accompanied by a photograph taken of the applicant within three months of the date of application. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 1, 1985; Ord. 80-69 § 2 (Part), 1980.)

5.24.140 Qualifications of Applicant for Driver's Certificate. Every applicant for a driver's certificate shall:

- (1) Be over the age of eighteen years;
- (2) Not have been convicted of any felony or any crime involving moral turpitude or driving under the influence of intoxicating liquor or drugs within five (5) years preceding the making of an application for a driver's certificate;
- (3) Not have been convicted of reckless driving, or of driving on a revoked or suspended driver's license within three (3) years preceding the making of an application for a driver's certificate;
- (4) Does not have an expired, suspended or revoked driver's license at the time of application. (Ord. 97-119 § 5, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 2, 1985; Ord. 80-69 § 2 (part), 1980.)

5.24.150 Investigation of Applicant for Driver's Certificate.

(a) Applications for driver's certificates shall be submitted to the police department for investigation as to compliance with the requirements of this chapter prior to approval and issuance of certificate by the city clerk. A report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application and returned to the city clerk. The city clerk shall not issue a certificate to any applicant who is in violation of Section 5.24.140.

(b) The City Clerk may issue a temporary driver's certificate pending such investigation, however, the City Clerk may not issue a temporary certificate if the applicant's driver's license is currently expired, suspended or revoked. (Ord. 97-119 § 6, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 3, 1985; Ord. 80-69 § 2 (Part), 1980.)

5.24.160 Issuance of Driver's Certificate. Upon determination that the applicant meets the qualifications set forth in section 5.24.140, the city clerk will issue a certificate that expires on December 31 of the year issued. The certificate will bear the picture of the applicant and will be posted in the vehicle any time the driver is on duty. (Ord. 96-58 § 2, 1996)

5.24.170 Driver's Certificate Fee. No certificate shall be issued until the applicant pays a driver's certificate fee. Such fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-123 § 2, 2002; Ord. 96-58 § 2, 1996)

5.24.180 Renewal Of Driver's Certificate. A taxicab driver's certificate may be renewed from year to year by the city clerk upon written application. Each renewal shall be investigated by the police department as provided in Section 5.24.120 pertaining to new certificates. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 3, 1985; Ord. 80-69 § 2, (part), 1980.)

5.24.190 Suspension Or Revocation of Taxicab Driver's Certificate.

(1) A certificate issued under the provisions of this Chapter may be revoked or suspended by the City Clerk if the holder thereof:

- (a) Violated any of the provisions of this ordinance;
- (b) Has made any false statement as to a material matter in an application for a certificate, or a certificate renewal;
- (c) Violated any ordinances of the city or the laws of the state of Kansas, the violation of which reflect unfavorable on the fitness of the holder to offer public transportation;
- (d) Is convicted of a felony, any crime involving moral turpitude, repeated violations of the traffic laws of the city or state, or driving a vehicle under the influence of intoxicating liquor or drugs, reckless driving, or driving on a suspended or revoked license;
- (e) Has become ineligible for a certificate.

(2) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard by the City Clerk. (Ord. 97-119 § 7, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.200 Prohibition Of Drivers. No taxicab driver shall without cause willfully refuse to accept a passenger for transportation to any area within the city, or to respond to a request for passenger service. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.205 Appeals.

(a) Anyone who has been denied a taxicab license or driving certificate or who has had such license or certificate revoked or suspended pursuant to Sections 5.24.120 or 5.24.190 may appeal the City Clerk's decision to an administrative hearing officer.

(b) An appeal may be taken within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination by making a written request for a hearing. The hearing shall be conducted by a designated hearing officer appointed by the City Manager who shall not be a subordinate of the City Clerk. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing, unless otherwise stated at the hearing. The written order shall describe the relevant facts relied upon, state the specific code provisions being relied upon, and state any other stipulations as deemed necessary by the hearing officer.

(c) The hearing officer's decision may be appealed within thirty (30) days of such written order to the Johnson County District Court. (Ord. 97-119 § 8, 1997)

5.24.210 Violation--Penalty. Failure to comply with the license or certificate requirements of this chapter shall render the person operating a vehicle in violation thereof subject to conviction punishable by a fine of Five Hundred Dollars (\$500.00) or less or imprisonment for six months or less, or both such fine and imprisonment. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.220 Disclosure. Complaints against service providers may be filed with the city clerk by calling 971-8521. (Ord. 97-119 § 9, 1997; Ord. 96-58 § 2, 1996)

CHAPTER 5.28

SOLICITATION, PEDDLING AND CANVASSING

Sections:

- 5.28.010 Purposes.
- 5.28.020 Definitions.
- 5.28.030 Prohibited Acts.
- 5.28.040 Special Regulations for Ice Cream Vendors.
- 5.28.045 Issuance of Certificate of Registration--Organizations (Repealed 9/1/98).
- 5.28.050 Placing Handbills In or Upon Vehicles (Repealed 10/5/99).
- 5.28.060 Duty of Police to Enforce.
- 5.28.070 Penalty.
- 5.28.080 Separability.
- 5.28.090 Revocation of Certificate (Repealed 9/1/98).

5.28.010 Purposes. The purposes of this chapter are to protect the public against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruptions of privacy, and to preserve the public health, safety and welfare by regulating and controlling solicitors, peddlers and canvassers. (Ord. 98-88 § 2, 1998.)

5.28.020 Definitions. For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

A. "Canvass" as used in this chapter means opinion sampling, poll taking, proselytizing, or other similar activity from house to house, door to door, street to street, or from place to place.

B. "Canvasser" as used in this chapter means any person who engages in canvassing in person for himself or any other person.

C. "Charitable" as used in this chapter means any activity represented as carried on from unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical, or religious activities, either actual or implied.

D. "City" as used in this chapter means the City of Olathe, Kansas.

E. "Peddle" as used in this chapter means to operate from a temporary stand, display or similar facility or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares, or merchandise for the purpose of offering and exposing the same for sale.

F. "Peddler" as used in this chapter means a person who peddles for himself or any other person.

G. "Person" as used in this chapter means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

H. "Solicit" and "solicitation" as used in this chapter mean and include any one or more of the following:

1. Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services of any kind, character or description;
2. Requesting directly or indirectly contributions of funds on the plea or representation that such contributions will be used for a charitable purpose;
3. Canvassing or peddling as defined in this section.
4. Advertising or offering of (to include, but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, regardless of whether a doorbell is rung or any physical or verbal contact is made.

A "solicitation" as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale.

I. "Solicitor" as used in this chapter means a person who solicits for himself or any other person.. (Ord. 98-88 § 2, 1998; Ord. 84-19 § 1, 1984; Ord. 81-129 § 2 (part), 1981.)

5.28.030 Prohibited Acts.

A. It shall be unlawful for any solicitor to:

1. Ring the bell or knock on the door or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words *No Solicitors, No Trespassers* or words of similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof.

2. Solicit at hours other than the following: ten o'clock (10:00) A.M. to eight o'clock (8:00) P.M. local time of any day.

3. Engage in soliciting upon any premises (including parking lots), business or dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises, business or residence.

4. Make more than one solicitation call at the same residential premises for identical goods, services or contributions within any consecutive fourteen (14) day period without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.

5. Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars (\$5.00) in cash or tangible property, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any charitable solicitor or organization accepting any contribution exceeding five dollars (\$5.00) in cash or tangible property to fail to provide, at the request of the donor, a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.

6. Fail, at the outset, to disclose to the prospective buyer, prospective donor or canvasee his name and the name of the company, product or organization he represents.

7. Make any assertion, representation or statement which misrepresents the purpose of the call or use any plan, scheme or ruse which misrepresents such purpose.

8. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction of adequate access to fire, police or sanitation vehicles.

9. Advertise or offer (to include but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, if asked to discontinue by the owner/occupant, or if a "No Solicitors" sign is posted on the property, regardless of whether a doorbell is rung or any physical or verbal contact is made.

10. To cut across or walk upon any lawn, front yard or courtyard, except upon sidewalks or walkways if such walkways are provided or upon a regularly established path where no sidewalk or walkway has been provided to the house or other building.

B. It shall be unlawful for any person to:

1. Solicit who has been convicted of a felony, misdemeanor or ordinance violation involving force, violence, moral turpitude, deceit, fraud or the violation of any law regulating the act of soliciting as defined in this Chapter within the past five (5) years in this City, State or subdivision thereof or any other state or subdivision thereof or of the United States.

2. Solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence. (Ord. 98-88 § 2, 1998.)

5.28.040 Special Regulations for Ice Cream Vendors.

A. Definitions. The following words and phrases when used in this Section shall, for the purpose of this Section, have the meanings respectively ascribed to them in this Section except when the context otherwise requires:

"Ice cream vendor" means any person, firm, partnership or corporation who travels by any type of vehicle from house to house, or place to place, selling or offering for sale any ice cream food products within the corporate limits of the City of Olathe; provided, however, that no person, firm, partnership or corporation shall be considered an ice cream vendor when orders are taken for ice cream food products to be delivered to the ultimate consumer on a prearranged day subsequent to the date of sale.

"Ice cream vendor unit" or "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 for the purpose of vending ice cream.

B. It shall be unlawful for any ice cream vendor to:

1. Vend on a street where the posted speed limit exceeds twenty-five (25) miles per hour, nor exceed a speed of fifteen (15) miles an hour when seeking sales or when attempting to make a sale;
2. Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;
3. Double-park, or park in any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale;
4. Make a U-turn on any block;
5. Drive the vehicle backwards to make or attempt any sale;
6. Sell or attempt to sell to any person who is standing in the street;
7. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a driver and a bona fide assistant or assistants authorized by the owner of the vehicle and/or the licensee;
8. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes, or otherwise stop or park a vehicle on the public right-of-way for the purpose of making a sale or sales so as to obstruct the free flow of traffic;
9. Sell or attempt to sell along any particular route more than one time during a twenty-four hour period;
10. Sell or attempt to sell inside any City park or recreational area unless authorized by the City as part of a City-sponsored event or under a temporary sales and event permit;
11. Sell or attempt to sell from a vehicle which is not equipped with a prominent sign visible to both the front and rear with the wording "Caution – Children," and flashing amber (yellow) caution lights on all four corners of the vehicle visible from front, rear and both sides;
12. Use a sound device or bell of any kind whatsoever, except amplified music or chimes which are not audible any distance greater than three hundred (300) feet which are turned off when the vehicle is stationary for the purpose of seeking a sale or attempting to make a sale;
13. Sell or attempt to sell or use amplified music or chimes outside the hours of 10:00 A.M. to thirty (30) minutes after sunset;
14. Sell or attempt to sell while the vehicle is moving; or
15. Sell or attempt to sell within five hundred (500) feet of an active school zone of a public or private school.

C. Exceptions. Exceptions to the prohibitions set forth in Subsection B of this Section may only be approved as part of a City-approved Temporary Sales or Event Permit or other City-sponsored event.

D. Vehicle Inspection. The Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter may at any time cause any ice cream vendor unit to be inspected to determine that said unit is suitable from the standpoint of safety for the conduct of an ice cream vendor business and that all provisions of this Section and any other City ordinances relating to safety are being complied with. (Ord. 15-18 § 1, 2015; Ord. 98-88 § 2, 1998; Ord. 87-152 § 1, 1987; Ord. 81-129 § 2, (part), 1981.)

5.28.045 Issuance of Certificate of Registration—Organizations. Repealed. (Ord. 98-88 § 2, 1998; Ord. 84-19 § 3, 1983.)

5.28.050 Placing Handbill In or Upon Vehicles. Repealed. (Ord. 99-99 § 1, 1999; Ord. 98-88 § 2, 1998.)

5.28.060 Duty of Police to Enforce. It shall be the duty of any police officer of the city to enforce the provisions of this chapter against any person found to be violating the same. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.070 Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each offense or shall be imprisoned for a period not to exceed ninety days, or shall be both so fined and imprisoned. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.080 Separability. It is the intention of the city that each separate provision of this chapter shall be independent of all other provisions herein, and it is further the intention of the city that if any provision of this chapter is declared invalid, all other provisions thereof shall remain valid and enforceable. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.090 Revocation of Certificate. Repealed. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

CHAPTER 5.30

MOBILE FOOD VENDORS

Sections:

5.30.010	Definitions
5.30.020	Operating Conditions
5.30.030	Licenses and Permits
5.30.040	Inspection
5.30.050	Penalties
5.30.060	Applicability
5.30.070	Severability

5.30.010 Definitions. The words and phrases listed below when used in this Chapter shall have the following meanings:

“City Approved Event” shall mean any event sanctioned by a Permit issued by the City, including but not limited to a Temporary Sales & Event Permit and/or a Temporary Concession License.

“Mobile Food Vendor” or “Vendor” shall mean any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.

“Mobile Food Unit” or “Unit” shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale.

“Public property” shall include all City streets, alleys, rights-of-way, parking lots, and parking spaces, but shall not include any City parks and/or recreational areas as defined in Section 12.21.010 of the Olathe Municipal Code. (Ord. 15-17 § 1, 2015.)

5.30.020 Operating Conditions.

A. Mobile Food Vendors may operate within the City under the following conditions:

1. Location. Mobile Food Vendors may vend on Public property in accordance with this Chapter. Mobile Food Units may not be parked on Public property where a line of customers would hinder the flow of traffic on any street, the flow of bicycles within any bike lane or route, or the flow of pedestrians along any sidewalk. No accessible route providing access to persons with disabilities may be blocked or reduced to less than five (5) feet in width. If any such hindrance occurs, the Vendor must either (a) instruct customers to move to a safe location outside of the flow of traffic, bicycles, and pedestrians, (b) temporarily stop vending from its Unit, or (c) move its Unit to a different location.

2. Paved Surfaces. All Mobile Food Vendor operations must occur on paved surfaces constructed in accordance with Section 18.30.160 of the Unified Development Ordinance, unless as part of a City Approved Event.

3. Distance from Restaurants. No Mobile Food Vendor may vend on public or private property within a one hundred fifty foot (150’) radius from a brick and mortar restaurant during such restaurant’s posted hours of operation unless the Mobile Food Truck Vendor has written permission from the restaurant owner and maintains a record of such permission in its Unit for inspection.

4. Hours of Operation. Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a single property for more than four (4) hours out of every day, or outside the hours of 7:30 A.M. to thirty (30) minutes after sunset except as part of a City Approved Event. Mobile Food Vendors are prohibited at all times from selling or offering for sale alcoholic beverages.

5. Signage. Except as otherwise provided herein, no sign or device prohibited by Section 18.50.190 of the Unified Development Ordinance may be erected, placed, installed, and/or maintained in association with a Mobile Food Unit. Signage mounted on a Mobile Food Unit shall not exceed the dimensions of the Unit by more than one (1) foot in any direction. No sign on a Mobile Food Unit may be illuminated. A maximum of one detached "A" Frame Sign may be permitted with a maximum area of eight (8) square feet and a maximum overall height of four (4) feet. "A" Frame Signs must be located within fifteen (15) feet of its associated Unit and may not interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public. "A" Frame Signs may only be used during the hours its associated Unit is conducting business.

6. Lights. No flashing lights or attention-attracting devices (as defined in Section 18.50.190 of the Unified Development Ordinance) are permitted on or in association with the use of a Mobile Food Unit. No direct light may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles or pedestrians from a Mobile Food Unit.

7. Accessory Structures. Unless otherwise provided in this Section, no tables, chairs, or other accessory structures may be erected by a Mobile Food Vendor outside of a Mobile Food Unit.

8. Trash and Recycling. Trash and recycling receptacles shall be provided with each Mobile Food Unit. Such receptacles must be attached to the Unit or located within fifteen (15) feet of the Unit and cannot interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public.

9. Restoration of Site. Immediately upon cessation of vending, the Mobile Food Vendor shall return the site to its previous condition, including the removal of all litter, repair of any damage, or other evidence of the vending. If the site is not returned to its previous condition, the City will restore the site at the expense of the vendor. (Ord. 15-17 § 1, 2015.)

5.30.030 Licenses and Permits. All Mobile Food Vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of Mobile Food Units from all applicable jurisdictions. Evidence of all such licenses and/or permits shall be kept in the Unit and produced upon request by the Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter. (Ord. 15-17 § 1, 2015.)

5.30.040 Inspection. The Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter may at any time cause any Mobile Food Unit to be inspected to determine that said unit is suitable from the standpoint of safety for the conduct of a mobile food vendor business and that all provisions of this Chapter and any other City ordinances relating to safety are being complied with. (Ord. 15-17 § 1, 2015.)

5.30.050 Penalties. Any person operating as a Mobile Food Vendor in violation of this Chapter shall be charged with an Unclassified Public Offense in accordance with Chapter 9.18 of the Olathe Municipal Code and may be requested by the Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter to leave the premises on which they are conducting business. (Ord. 15-17 § 1, 2015.)

5.30.060 Applicability. The provisions of this Chapter shall not apply to the following activities:

- A. Ice cream vendors licensed under Section 5.28.040 of the Olathe Municipal Code;
- B. Caterers licensed under Chapter 7.10 of the Olathe Municipal Code;
- C. Vendors selling as part of a City Approved Event;
- D. Vendors selling at the Olathe Farmers' Market;
- E. Vendors selling on public or private school property with the permission of any such school; or

F. Vendors selling on private property with the permission of the property owner. (Ord. 15-17 § 1, 2015.)

5.30.140 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. (Ord. 15-17 § 1, 2015.)

CHAPTER 5.36

MASSAGE THERAPY

Sections:

5.36.010	Definitions.
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5.36.100	Suspension of Massage Therapy Establishment License.
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5.36.195	Change of Location.
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5.36.010 Definitions.

"Conviction" means being found guilty or entering into a diversion agreement or deferred judgment agreement.

"Employee" means any person, other than a massage therapist, who renders any service for or on behalf of a licensee under this Chapter and/or who receives compensation from the licensee or a patron.

"Healing arts practitioner" is defined by the provisions of K.S.A.65-2801, et. seq.

"Health official" means any person employed by the City of Olathe and designated by the City Manager to enforce and administrate the provisions of this Chapter.

"Massage therapist" means any person who, for any consideration whatsoever, engages in massage therapy.

"Massage therapy" means any method which may include but is not specifically limited to stroking, kneading, tapping, compression, vibration, rocking, friction, pressure, and those techniques based on manipulation or the application of pressure to the muscular structure or soft tissues of the human body, which may also include non-forceful passive or active movement and/or the application of techniques intended to affect the energetic systems of the body. The use of oils, lotions, powders, or other lubricants may also be included. "Massage therapy" does not mean the touching, in any fashion, of a patron's pubic region, genitals, perineum, anal region, and/or the female breast.

"Massage therapy establishment" means any establishment licensed hereunder where any person, firm, partnership, association, or corporation engages in massage therapy for compensation.

“Minor traffic violation” means any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

“Off-site massage therapy” means massage therapy that is provided by a massage therapist on the business premises of a massage patron.

“Operator” means any owner, manager, individual, licensee, person, and/or employee principally in charge of a massage therapy establishment at any given time.

“Patron” means any person who utilizes or receives the services of any massage therapist and/or massage therapy establishment subject to the provisions of this Chapter and under such circumstances that it is reasonably expected he or she will pay money or give any other consideration therefor.

“Police officer” means any duly authorized law enforcement officer employed by the City of Olathe.

“Table shower” means an activity in which a patron is washed by a massage therapist.

“UDO” means the Unified Development Ordinance. (Ord. 15-60 § 1, 2015.)

5.36.020 Massage Therapy Establishment License Required. No person, firm, partnership, association or corporation can operate a massage therapy establishment without a valid massage therapy establishment license issued by the City. A licensee must have a separate license for each place of business. A license is valid for a period of twelve (12) months from the date of issuance. (Ord. 15-60 § 2, 2015.)

5.36.030 Massage Therapist License Required.

A. No person can provide massage therapy in any massage therapy establishment unless he or she has a valid massage therapist’s license issued by the City pursuant to the provisions of this Chapter.

B. No person can provide off-site massage therapy without a valid massage therapist license issued by any jurisdiction which issues such licenses, and the licensing standards are at least as comprehensive as the City’s licensing requirements as set forth in Section 5.36.090. (Ord. 15-60 § 3, 2015.)

5.36.040 Limitation on Off-site Massage Therapy. The authority granted a licensee issued a massage therapy establishment or massage therapist license allows off-site massage therapy. The patron must be fully clothed. (Ord. 15-60 § 4, 2015.)

5.36.045 Student Massage Therapy. An individual actively enrolled in and currently attending classes in a course of instruction in the theory, method or practice of massage, may provide massage therapy as a practicum component of the training program, provided the following conditions are met:

A. The massage therapy is under the supervision of a licensed massage therapist. For the purposes of this Section, supervision means the supervising therapist is observing the student providing massage therapy on a patron.

B. All advertisements for massage therapy that will be provided by a student must clearly inform the patron that the massage therapy will be provided by a student under the supervision of a licensed massage therapist.

C. Prior to providing massage therapy, the student massage therapist will require the patron to sign an acknowledgement that he/she has been informed the massage therapy will be provided by a student under the supervision of a licensed massage therapist. These acknowledgement documents will be maintained by the supervising massage therapist for a period of one (1) year and will be produced at the request of any health official or police officer.

D. All student massage therapy must occur at a licensed massage therapy school. Under no circumstances are students permitted to provide in-home massage therapy.

E. No student massage therapist may receive any consideration whatsoever for providing massage therapy. (Ord. 15-60 § 5, 2015.)

5.36.050 Application for Massage Therapy Establishment License.

A. Every applicant for a massage therapy establishment license to operate a massage therapy establishment must file an application with the City Clerk and pay a non-refundable fee. Such fee will be established by the Governing Body by resolution.

B. The application for a massage therapy establishment license will set forth the exact nature of the services to be provided, the proposed place of business, and the name, address, and telephone number of each applicant and any operator.

C. In addition to the foregoing, any applicant for a massage therapy establishment license must furnish the following information:

1. Written evidence that the applicant and the operator(s) of the business are at least eighteen (18) years old by providing a copy of a current state or federal issued form of identification;
2. Social Security number, weight, height, color of hair and eyes of the applicant and operator(s);
3. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
4. The massage therapy establishment license history of the applicant; whether the applicant while previously operating in this or another city or state under license has had such license denied, suspended or revoked, or has voluntarily surrendered the license in lieu of revocation or suspension by a city or any state or local agency within ten (10) years prior to the date of application and the reason why the license was denied, revoked, suspended or voluntarily surrendered;
5. All criminal offenses (except minor traffic violations) charged against the applicant or any criminal offenses charged on, against or related to any massage therapy establishment which applicant was operating or employed by, in this or another city or state within ten (10) years prior to the date of application, fully disclosing the place and court where the criminal offense occurred, the disposition of the criminal offense, and the circumstances thereof.

D. The applicant must provide written authorization for the City, its agents and employees to seek information and investigate the truth of the statements set forth in the application and the qualifications of the applicant and the operator(s) for the license.

E. In the case of applicants who personally provide massage therapy, the applicant must also apply for and receive a massage therapist license as required in Section 5.36.030 A.

F. Upon submission of a request for renewal on a form provided by the City and a fee, an expiring massage therapy establishment license may be renewed by the City Clerk if there has been no change in ownership. Such fee will be adopted by the Governing Body by resolution. All requests for renewal must be received by the City at least thirty (30) days prior to the expiration of the license.

If the renewal request is not received at least thirty (30) days prior to the expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. The renewal form will require a notarized statement that there have been no criminal offenses (except minor traffic violations) charged against the applicant or criminal offenses charged on, against or related to the massage therapy establishment within the preceding twelve (12) months.

G. No suspended license will be renewed. If a suspended license lapses during a suspension period, a new application for a massage therapy establishment license may only be filed upon the expiration of the period of suspension. (Ord. 15-60 § 6, 2015.)

5.36.060 Application for Massage Therapist License.

A. Any person who engages or intends to engage in massage therapy for any consideration whatsoever must file a written application with the City Clerk and pay a non-refundable fee. Such fee will be adopted by the Governing Body by resolution.

B. All applications for a massage therapist license must contain the following information:

1. Name, address, and telephone number;
2. Name, address, and telephone number of employing establishment;
3. Applicant's Social Security number, weight, height, color of hair and eyes;
4. Written evidence that the applicant is at least eighteen (18) years old by providing a copy of a current state or federal issued form of identification;
5. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
6. Whether the applicant has ever been charged with any criminal offense (except minor traffic violations). If the applicant has been charged with any criminal offense, a statement must be made giving the place and court where the person was charged and the disposition of such criminal offense;
7. The massage therapist license history of the applicant, including, but not limited to, whether the applicant has:
 - a. had such license denied, suspended or revoked;
 - b. voluntarily surrendered the license in lieu of revocation or suspension by a city or any state or local agency within ten (10) years prior to the date of application;
 - c. if the license was denied, suspended, revoked or voluntarily surrendered, then the reason why the license was denied, revoked, suspended or voluntarily surrendered;
8. The position or function the applicant is being hired to provide within the employing establishment.

C. The applicant must provide written authorization for the City, its agents, and employees to seek information and investigate the truth of the statements set forth in the application and the qualifications of the applicant for the license.

D. Upon submission of a request for renewal, on a form provided by the City, and a fee, an expiring massage therapist license may be renewed by the City Clerk. Such fee will be adopted by the Governing Body by resolution. All requests for renewal must be received by the City at least thirty (30) days prior to expiration of the license. If the renewal request is not received at least (30) days prior to expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. The renewal form will require a notarized statement that the applicant has not been charged with any criminal offense (except minor traffic violations) within the preceding twelve (12) months.

E. No suspended license will be renewed. If a suspended license lapses during a suspension period, a new application for a massage therapist license may only be filed upon the expiration of the period of suspension. (Ord. 15-60 § 7, 2015.)

5.36.070 Massage Therapist Education Requirements.

A. A massage therapist licensed in accordance with this Chapter must be certified by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or pass the Massage & Bodywork Licensing Examination (MBLEx). This Section will be effective from and after the passage and publication of this ordinance as provided by law for all new massage therapist applicants and upon license renewal in 2017 for existing massage therapists licensed after January 1, 1996.

B. Massage therapists licensed in accordance with this Chapter prior to January 1, 1996 are subject to the educational requirements set forth in this subsection unless the massage therapist can demonstrate that he or she has been licensed continuously since January 1, 1996. (Ord. 15-60 § 8, 2015.)

5.36.080 Issuance of Massage Therapy Establishment License.

A. After the filing of an application in the proper form and completion of a criminal background investigation, the City Clerk will examine the application, and after such examination, will issue a license for a massage therapy establishment unless the City Clerk finds that:

1. The applicant or operator of the establishment has a conviction for:

- a. a felony; or
- b. a misdemeanor in the last five (5) years for any of the following:

- 1. domestic violence
- 2. a person criminal offense
- 3. a drug violation
- 4. a second or subsequent DUI
- 5. furnishing alcohol to minors; or

c. an offense involving sexual misconduct; including but not limited to obscenity, solicitation of a lewd or unlawful act, or prostitution; or

2. The applicant or operator of the establishment:

- a. is currently on probation or diversion or has a deferred judgment for any criminal offense listed in this Section; or
- b. has an active warrant for arrest for any criminal offense listed in this Section; or
- c. is currently charged with any criminal offense listed in this Section; or
- d. has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith; or
- e. has voluntarily surrendered a massage therapy establishment license or similar permit in lieu of revocation or had a license or permit revoked or a license or permit is currently suspended, by a city or any state or local agency; or
- f. fails to disclose information in response to questions in the license application; or

3. The correct fee has not been paid to the City; or

4. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations; or

5. The applicant or operator(s) of the business are not over the age of eighteen (18) years;
and

6. The applicant or operator(s) of the business would be ineligible to receive a license under the provisions of this Chapter.

B. Any massage therapy establishment license issued under the provisions of this Chapter must be displayed at all times by the licensee in an open and conspicuous place in the massage therapy establishment.

C. Renewal applications are subject to the same criteria as an original application except as provided otherwise in Sections 5.36.050 F. and 5.36.050 G. (Ord. 15-60 § 9, 2015.)

5.36.090 Issuance of Massage Therapist License.

A. After the filing of an application in the proper form and completion of a criminal background investigation, the City Clerk will examine the application, and after such examination, will issue a massage therapist license unless the City Clerk finds that:

1. The applicant for the massage therapist license has a conviction for:

- a. a felony; or
- b. a misdemeanor in the last five (5) years for any of the following:

- 1. domestic violence
- 2. a person criminal offense
- 3. a drug violation
- 4. a second or subsequent DUI
- 5. furnishing alcohol to minors; or

c. an offense involving sexual misconduct; including but not limited to obscenity, solicitation of a lewd or unlawful act, or prostitution; or

2. The applicant:

- a. is currently on probation or diversion or has a deferred judgment for any criminal offense listed in this Section; or
- b. has an active warrant for arrest for any criminal offense listed in this Section; or
- c. is currently charged with any criminal offense listed in this Section; or
- d. has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith; or
- e. has voluntarily surrendered a massage therapist license or similar permit in lieu of revocation or had a license or permit revoked or a license or permit is currently suspended, by a city or any state or local agency; or
- f. fails to disclose information in response to questions in the license application; or
- g. has not been certified by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or has not passed the Massage & Bodywork Licensing Examination (MBLEx); or

3. The correct fee has not been paid to the City.

B. Any massage therapist license issued under the provisions of this Chapter must be displayed at all times by the licensee in an open and conspicuous place in the massage therapy establishment.

C. Renewal applications are subject to the same criteria as an original application except as provided otherwise in Sections 5.36.060 D. and 5.36.060 E. All requests for renewal must be received by the City at least thirty (30) days prior to expiration of the license. If the renewal request is not received at least thirty (30) days prior to expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. (Ord. 15-60 § 10, 2015.)

5.36.100 Suspension of Massage Therapy Establishment License.

A. Any license issued by the City Clerk for a massage therapy establishment may be suspended by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative where it is found that:

- 1. any of the provisions of this Chapter have been violated; or
- 2. the licensee or operator has been charged with a criminal offense found in Sections 5.36.080 or 5.36.090; or
- 3. the licensee or operator refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative, before suspending a massage therapy establishment license, will give the licensee at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the licensee may present evidence. The decision of the City Clerk or designated representative is final, unless the licensee files an appeal in accordance with Section 5.36.250.

C. A suspension based on a charged criminal offense is effective until a court of competent jurisdiction rules on the criminal offense, unless the licensee files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 11, 2015.)

5.36.105 Revocation of Massage Therapy Establishment License.

A. Any license issued by the City Clerk for a massage therapy establishment may be revoked by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative where it is found that:

1. any of the provisions of this Chapter have been violated; or
2. the licensee or operator, including a massage therapist, has a conviction for a criminal offense found in Sections 5.36.080 or 5.36.090; or
3. the licensee or operator refused to permit any police officer or health official of the City to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative, before revoking a massage therapy establishment license, will give the licensee at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the licensee may present evidence. The decision of the City Clerk or designated representative is final, unless the licensee files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 12, 2015.)

5.36.110 Suspension of Massage Therapist License.

A. A massage therapist license issued by the City Clerk may be suspended by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative, where it is found that:

1. the massage therapist has violated any of the provisions of this Chapter; or
 2. the massage therapist has been charged with a criminal offense found in Section 5.36.090;
- or
3. the massage therapist refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative before suspending a massage therapist license, will give the massage therapist at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the massage therapist may present evidence. The decision of the City Clerk or designated representative is final, unless the massage therapist files an appeal in accordance with Section 5.36.250.

C. A suspension based on a charged criminal offense is effective until a court of competent jurisdiction rules on the criminal offense, unless the massage therapist files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 13, 2015.)

5.36.115 Revocation of Massage Therapist License.

A. A massage therapist license issued by the City Clerk may be revoked by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative, where it is found that:

1. the massage therapist has violated any of the provisions of Chapter; or
2. the massage therapist has a conviction for a criminal offense found in Section 5.36.090; or
3. the massage therapist refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative before revoking a massage therapist license, will give the massage therapist at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the massage therapist may present evidence. The decision of the City Clerk or designated representative is final, unless the massage therapist files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 14, 2015.)

5.36.130 Inspections, Immediate Right of Entry.

A. Any health official and/or police officer may from time to time make an inspection of each licensed massage therapy establishment in this City for the purposes of determining compliance with the provisions of this Chapter. Such inspections will be during any hours when the establishment is open to the public.

B. It is unlawful for any licensee, operator, or massage therapist to deny any health official or police officer immediate access to the premises or to hinder an inspection in any manner.

C. Any failure on the part of any licensee, operator, or massage therapist to grant immediate access to any health official or police officer is grounds for the suspension or revocation of any massage therapy establishment license and/or massage therapist license.

D. The suspension and/or revocation procedure provided for in Sections 5.36.100, 5.36.105, 5.36.110, and/or in 5.36.115 may be initiated if an inspection reveals a violation of any provision of this Chapter. (Ord. 15-60 § 16, 2015.)

5.36.140 Massage Therapy Establishment Regulations. The operation of any massage therapy establishment will be subject to the following regulations:

A. The licensee will have the massage therapy establishment supervised at all times when open for business by himself/herself or an operator. The licensee or operator will personally supervise the establishment, and will not violate or permit others to violate any applicable provision of this Chapter.

B. Every licensee will at all times be responsible for the conduct of business on the licensed massage therapy establishment premises and for any act or conduct of an operator, massage therapist or employee, which constitutes a violation of the provisions of this Chapter. Any violation of the city, state or federal laws committed on the licensed premises by any licensee, operator, massage therapist or employee affecting the eligibility or suitability of the licensee to hold a license, may be grounds for suspension or revocation of same.

C. The massage therapy establishment will be closed and operations will cease between the hours of twelve (12) a.m. and six (6) a.m.

D. No alcoholic or cereal malt beverages, nor the possession or consumption thereof, will be allowed in or upon the massage therapy establishment premises.

E. All licensees, operators, massage therapists and employees will wear outer garments while at the establishment. Diaphanous or transparent clothing is prohibited. All licensees, operators, massage therapists and employees must be fully clothed at all times.

F. A licensed establishment must be kept clean and operated in a sanitary manner.

G. A patron's pubic region, genitals, perineum, anal region, and/or the female breast must be covered at all times by opaque towels, sheets, cloths or undergarments when in presence of a licensee, operator, massage therapist or employee.

H. Any contact by a licensee, operator, massage therapist or employee with a patron's pubic region, genitals, perineum, anal region, and/or the female breast is prohibited.

I. Clean, laundered sheets and towels will be provided to patrons for use. Such items will be laundered after each use thereof and stored in a sanitary manner.

J. Wet and dry heat rooms, showers, and other bathing compartments, and toilet rooms will be thoroughly cleaned each day the massage therapy establishment is in operation. Bathtubs or individual soaking areas will be thoroughly cleaned after each use.

K. Table showers are prohibited.

L. All massage therapy establishments and/or operators of massage therapy establishments will keep and maintain on the premises a current register of all massage therapists showing each individual's name, home address, telephone number, license number and a copy of the therapist's license and government-issued identification. Such register will be open to inspection during business hours by any health official or police officer.

M. All operators of a massage therapy establishment will keep a daily register at the massage therapy establishment of all patrons, with names, addresses, telephone numbers, and parental or legal guardian authorization (if applicable). Said daily register will, at all times during business hours, be subject to inspection by any health official or police officer and must be kept on file for one (1) year from the date of each entry.

N. No massage therapy establishment operator or employee will place, publish, distribute or cause to be placed, published or distributed, any advertisement offering or suggesting the availability of any service which is either prohibited or not authorized under this Chapter.

O. No individual will reside, inhabit or otherwise sleep overnight at a massage therapy establishment.

P. No operator or employee will permit the provision, offer to provide or provide to any patron any service with the intent to arouse or gratify the sexual desires of the operator, massage therapist, employee or patron. (Ord. 15-60 § 17, 2015.)

5.36.150 Massage Therapist Regulations. Massage therapists are subject to the following regulations when providing services:

A. The massage therapist will not violate any applicable provision of this Chapter.

B. A massage therapist will not provide massage therapy on patrons between the hours of twelve (12) a.m. and six (6) a.m.

C. A massage therapist will not consume any alcoholic or cereal malt beverages during business hours or while providing massage therapy.

D. Any violation of the city, state or federal laws committed by a therapist affecting his/her eligibility or suitability to hold a license may be grounds for suspension or revocation of same.

E. All massage therapists will wear outer garments while providing massage therapy. Diaphanous or transparent clothing is prohibited. The massage therapist must be fully clothed at all times.

F. A patron's pubic region, genitals, perineum, anal region, and the female breast must be covered at all times by opaque towels, sheets, cloths or undergarments when in the presence of the massage therapist.

G. Any contact by a massage therapist with a patron's pubic region, genitals, perineum, anal region, and/or the female breast is prohibited.

H. Table showers are prohibited.

I. A massage therapist will not provide or permit any massage therapy to be provided to a patron under the age of eighteen (18) unless the patron is accompanied to the massage therapy establishment by a parent or legal guardian, and the parent or legal guardian authorizes the massage therapy in writing.

J. No massage therapist will place, publish, distribute or cause to be placed, published or distributed, any advertisement offering or suggesting the availability of any service which is either prohibited or not authorized under this Chapter.

K. A massage therapist will notify the City Clerk of any change in massage therapy establishment employment within thirty (30) calendar days of the change.

L. No massage therapist will permit the provision, offer to provide or provide to any patron any service with the intent to arouse or gratify the sexual desires of the massage therapist or patron.

M. A massage therapist will keep a daily register at the massage therapy establishment of all patrons, with names, addresses, telephone numbers, and parental or legal guardian authorizations (if applicable). Said daily register will at all times during business hours be subject to inspection by any health official or police officer and must be kept on file for one (1) year from the date of each entry. (Ord. 15-60 § 18, 2015.)

5.36.190 Transfer of Licenses, Other Licenses and Fees.

A. A massage therapy establishment license is not transferable and such authority as a license confers shall be conferred only on the licensee named therein.

B. Any applications made, fees paid, and licenses obtained under the provisions of this Chapter are in addition to and not in lieu of any other fees or licenses required to be paid or obtained under any other ordinances of this City. (Ord. 15-60 § 22, 2015.)

5.36.195 Change of Location. If a licensee desires to change the location of the massage therapy establishment, the licensee will file an application with the City Clerk providing the same information relating to the proposed location as in the case of an original application. A fee for change of location will be adopted by the Governing Body by resolution. If the application is in proper form and complies with applicable zoning requirements of the UDO and all other requirements relating to the massage therapy establishment are met, a new license will be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 15-60 § 23, 2015.)

5.36.210 Exceptions. The provisions of this Chapter do not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in any such establishment, nor does this Chapter apply to barbers or cosmetologists, as prescribed under K.S.A. 65-1901d, lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Ord. 15-60 § 25, 2015.)

5.36.220 Further Regulations. The City Clerk or the health official may make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter. (Ord. 15-60 § 26, 2015.)

5.36.240 Penalty. Any person convicted of violating any of the provisions of this Chapter is guilty of an unclassified public offense and will be fined not more than Five Hundred Dollars (\$500.00) for each offense, and may be imprisoned for a period not to exceed one hundred eighty (180) days for each offense, or may be both fined and imprisoned. A separate offense will be deemed committed on each day during or which a violation occurs or continues. (Ord. 15-60 § 28, 2015.)

5.36.250 Appeal.

A. If the City Clerk or designated representative denies issuance of a license, or issues an order suspending or revoking a license, the licensee, up to but not more than fifteen (15) days after the order, may appeal such denial or order to the City Manager or designated representative.

B. If the City Manager or designated representative issues an order upholding the denial, suspension, or revocation of the license, the licensee, up to but not more than thirty (30) days after the order, may appeal the order to the District Court of Johnson County.

C. Any appeal taken under this Section will stay the order of suspension or revocation of the license. (Ord. 15-60 § 29, 2015.)

Previous massage therapy codes were codified with the following ordinances. (Ord. 13-40, 2013; Ord. 08-14, 2008; Ord. 05-46, 2005; Ord. 03-37, 2003; Ord. 02-124, 2002; Ord. 02-87, 2002; Ord. 96-75, 1996; Ord. 92-07, 1992; Ord. 531, 1976.)

CHAPTER 5.40
PRIVATE POLICE

Sections:

5.40.010 Definitions

5.40.010 Definitions. The following words and phrases as used in this chapter shall, for the purpose of this chapter, have the meaning respectively ascribed to them in this section:

(a) "Private merchant police," "guard service" and "patrol service" mean any person, firm or corporation who engages in a business for hire to provide a protection service for the property of others and whose duties and activities in that connection include patrolling, guarding or watching the property of a subscriber, purchaser or client under contract or agreement to provide a protective service.

(b) "Security officer" means any person regularly employed by a person, firm or corporation, and whose duties, in addition to property of the employer, include conducting investigations concerning the reputation or character of employers or prospective employers, and investigations concerning the location of property of the employer that becomes lost or stolen.

(c) "Watchman" means any person regularly employed by a person, firm or corporation whose duties and activities consist of patrolling, guarding or watching the property of his/her employer.

(d) For the purpose of this chapter, private merchant police, guard service, patrol service, watchman and security officer will be referred to as "private police." (Ord. 16-28 § 2, 2016; Ord. 02-125 § 1, 2002; Ord. 89-82, § 2, 1989; Ord. 817, 1978.)

CHAPTER 5.42

PAWNBROKERS AND PRECIOUS METAL DEALERS

Sections:

5.42.010	Definitions.
5.42.020	License Required.
5.42.030	Application for License.
5.42.040	Investigation by Chief of Police.
5.42.050	Issuance of License.
5.42.060	Transfer of Stock by Stockholder of Corporate License--Effect.
5.42.070	License Requirements.
5.42.080	Nonuse of License.
5.42.090	Change in Location of Place of Business.
5.42.110	Examination of Books, Accounts and Records.
5.42.120	Suspension or Revocation of License--Notice and Hearing.
5.42.130	Loans Secured by Pledged Goods--Written Contract Required, Contents--Retention, Disposition and Redemption of Pledged Articles.
5.42.140	Report of Description of Property Received in Pawn or Purchased as Secondhand Merchandise or as a Precious Metal Dealer.
5.42.150	Record of Transaction.
5.42.160	Prohibited Acts.
5.42.170	Inspection and Examination by Law Enforcement Officers.
5.42.180	Interest and Charges on Pawnbroker Transactions--Applicability of other Loans--Maximum Charges--Terms of Loans.
5.42.190	Requirements of Precious Metal Dealers.
5.42.200	Effect of Refusal to Redeliver Converted or Stolen Property.
5.42.210	Persons from whom Pledges may not be taken or Precious Metals Purchased.
5.42.220	Acts of Employees.
5.42.230	Safekeeping of Pledges.
5.42.240	Employee Registration.
5.42.250	City Codes.
5.42.260	Penalty.

5.42.010 Definitions. For the purpose of this chapter, the following words and phrases shall be defined as follows:

(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.

(3) "Person" means any individual, firm, company, partnership, corporation or association.

(4) "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 uncirculated coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or byproducts composed of such metals purchased from manufacturing firms.

(5) "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. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.020 License Required. It shall be unlawful for any person to engage or continue the business as a pawnbroker or precious metal dealer without first obtaining a license therefor from the city clerk. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.030 Application for License. Application for a license shall be in writing and shall state the full name and place of residence of the applicant; if the applicant is a partnership, the applicant 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 necessary to determine the applicant's qualifications for a license in accordance with the provisions of this chapter. Each applicant also shall submit with the application:

(1) A copy 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 or for sale at the time of the application at each place of business stated herein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale; and

(3) A copy of his lease in the event the applicant is not the owner of the premises on which his business is operating.

The license application shall be in a form approved by the Attorney General. Each application shall be accompanied by a fee which shall be paid annually upon renewal of the license. Such fee shall be adopted by the Governing Body of the City by resolution. All such fees received by the city clerk shall be deposited in the city general fund. (Ord. 02-126 § 1, 2002; Ord. 02-86 § 2, 2002; Ord. 84-20 § 1, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.040 Investigation by Chief of Police. All applications for pawnbrokers' or precious metal dealers' licenses or renewals thereof shall be presented to the Governing Body at a regular meeting thereof. No application shall be acted upon until a recommendation for or against the application is received from the chief of police, provided that the Governing Body shall not be bound by the Chief's recommendation. (Ord. 02-86 § 2, 2002; Ord. 87-30 § 23, 1987; Ord. 81-106 § 1 (part), 1981.)

5.42.050 Issuance of License. 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 years immediately preceding the date of his 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 his bond to appear in court to answer charges for any such offense within the ten 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 act;

(e) Any person who is not at least twenty-one 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 he has a written lease therefor at least three-fourths 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. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.060 Transfer of Stock by Stockholder of Corporate License--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, and any such transfer shall be null and void; provided, that if any such stockholder of a corporate licensee shall become deceased, and his 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, his heirs and devisees shall have fourteen 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 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 years of age or older must be a person who would be eligible to receive a license, or the trustee shall be and he is hereby authorized and required, within fourteen months after the effective date of the trust, to sell said stock to a person eligible to receive a license under this act, and he 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 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 chapter. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.070 License Requirements. 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 the provisions of this act governing the issuance of an initial license. Additionally, should the structure of the business change in form (e.g., partnership to corporation, etc.) then a new license will be required and it may be obtained through the application process contained in Section 5.42.030. (Ord. 02-86 § 2, 2002; Ord. 84-20 § 3, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.080 Nonuse of License. If a pawnbroker shall not conduct said business for a period of ninety days, the license shall be null and void. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.090 Change in Location of Place of Business. Whenever a licensee shall change the place of business to another location within the city, he immediately shall give written notice thereof to the city clerk 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 city 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 city shall be permitted under the same license. Additionally, if such change of location involves the acquisition of a new lease, such lease must meet the requirements of Section 5.42.050(g) and a copy must be submitted to the city clerk along with the written notice provided for above. (Ord. 02-86 § 2, 2002; Ord. 84-20 § 2, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.110 Examination of Books, Accounts and Records. Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the city to determine whether such licensee is complying with the provisions of this chapter. The city shall have the right to 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, agent or broker, or under or without authority of this chapter. The duly designated representatives of the city shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.120 Suspension or Revocation of License – Notice and Hearing. Any license issued under this act 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 act; 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 his bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten years immediately prior to the date of the licensee's application for the license. Said hearing herein provided shall be held within thirty days after notice thereof, and the alleged violation determined by written order of the city or county issuing the license within sixty 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. 14-41 § 3, 2014; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.130 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 month; the date on which the load is due and payable; the charges; and it shall clearly inform the borrower of his right to redeem the pledge during the redemption period of two 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 his possession, after the date on which the loan became due and payable, every article pledged to him for a redemption period of two 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, or his assigns, to such pledged article, to hold and dispose of as his 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. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.140 Report of Description of Property Received in Pawn or Purchased as Secondhand Merchandise or as a Precious Metal Dealer.

(a) On or before Tuesday of each week, 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 a 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) A transaction required to be reported under this section shall be submitted to the chief of police.

(c) All reports made pursuant to this section shall comply with and be submitted in a format approved by the chief of police. Reports shall be submitted in a computer software format that meets the hardware and software specifications of the Olathe Police Department. If the pawnbroker or precious metal dealer is unable to submit reports, chooses not to submit their reports through the approved computer software, or in a way that does not meet the Police Department specifications, then the reports will be entered and/or modified by the Department and a fee shall be charged to the pawnbroker or precious metal dealer.

(d) Every precious metal dealer shall retain in the dealer's possession for a period of fifteen days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The fifteen-day period shall commence on the date that the 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 days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional fifteen-day period unless the police chief notifies the dealer in writing that 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 county and district attorneys and their employees, for law enforcement purposes. (Ord. 05-71 § 1, 2005; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.150 Record of Transaction.

The provisions of this section are codified with Charter Ordinance No. 73 and can be found in the Charter Ordinance section of the Olathe Municipal Code. (CO 73§ 1, 2013; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.160 Prohibited Acts.

(a) It shall be unlawful for any pawnbroker to 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 years.

(b) It shall be unlawful for any precious metal dealer to purchase any precious metal from any person under the age of eighteen years. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.170 Inspection and Examination by Law Enforcement Officers. Every pawnbroker or precious metal dealer, and every person employed by a pawnbroker or precious metal dealer in the conduct of the pawnbroker's or dealer's business, shall admit to any and every part of the premises designated in the license, at any time, any law enforcement officer of the city, to examine any goods, articles, things, pledges, pawns, books or other records on the premises; and to search for and to take into possession any article known or believed by such officer to have been stolen. Such law enforcement officer may make any such search or seizure as is provided for in this section, and property so seized shall be receipted for by such officer who shall adequately describe the seized property and sign the receipt. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.180 Interest and Charges on Pawnbroker Transactions--Applicability of Other Loans--Maximum Charges--Terms of Loans.

(a) 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 act. 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 act.

(b) Whenever any loan is made by a pawnbroker for which goods are received in pledge:

- (1) 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 amount of the loan shall not exceed Five Thousand Dollars (\$5,000.00).

(c) The term of any loan made under the provisions of this act 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 act, no insurance charges or any other charges of any nature whatsoever shall be permitted. (Ord. 02-86 § 2, 2002; Ord. 93-14 § 1, 1993; Ord. 81-106 § 1 (part), 1981.)

5.42.190 Requirements of Precious Metal Dealers. A precious metal dealer shall require of 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 an agent 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. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.200 Effect of Refusal to Redeliver Converted or Stolen Property. 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 attorneys' fees incurred by the rightful owner, if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.210 Persons From Whom Pledges May Not Be Taken or Precious Metals Purchased.

(a) It shall be unlawful for any pawnbroker, his servant or employee to receive any goods, articles or things in pledge from a person knowingly intoxicated, under the influence of drugs or mentally incapacitated.

(b) It shall be unlawful for any precious metal dealer to purchase precious metal from any person who is knowingly intoxicated, under the influence of drugs or mentally incapacitated. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.220 Acts of Employees. The holder of a pawnbroker's or precious metal dealer's license shall be responsible for any and all acts of his employees, and for any violation by them of the provisions of this chapter. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.230 Safekeeping of Pledges. Every pawnbroker licensed under the provisions hereof shall provide a safe place for the keeping of the pledges received by him and shall have sufficient insurance on the property held on pledges, for the benefit of the pledgors, in case of destruction by fire. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.240 Employee Registration. Every employee of a pawnbroker or precious metal dealer shall register his name and address, birth date and Social Security number with the Police Department of the City and shall have had his thumbprints, fingerprints and photograph taken and filed with the City and receive a certificate showing compliance therewith. For the purpose of this section, an employee of a pawnshop shall include all persons working in a pawnbroker's shop and any owner, stockholder if the owner is a corporation, partner or any other person who receives income in any manner from the operation of said pawnshop. Every person seeking to be registered under the provisions of this section shall first pay to the City a registration fee as a condition precedent to having issued to him or her a certificate as provided herein. The employee registration fee shall be adopted by the Governing Body by resolution. (Ord. 13-57 § 1, 2013; Ord. 09-41 § 1, 2009; Ord. 02-126 § 2, 2002; Ord. 02-86 § 2, 2002; Ord. 02-29 § 1, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.250 City Codes. No pawnbroker's or precious metal dealer's license shall be issued if the place of business does not comply with the provisions of the city's zoning, building or fire codes. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.260 Penalty. Any person violating any provision of this chapter, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or shall be imprisoned for a period not to exceed sixty days, or shall be both fined and imprisoned. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

Previous Chapter 5.43, Payday Loan and Title Loan Businesses, was repealed by Ordinance No. 16-24, Distance Restricted Businesses. Payday Loan and Title Loan Businesses are included in new Chapter 5.43, Distance Restricted Businesses. Past Payday Loan and Title Loan Businesses regulations were codified with Ordinance Numbers 08-110 and 08-57.

CHAPTER 5.43

DISTANCE RESTRICTED BUSINESSES

Sections:

5.43.010	Definitions
5.43.020	License Required
5.43.030	Application for License and Fees
5.43.040	Issuance of License
5.43.050	License Requirements
5.43.060	Nonuse of License
5.43.070	Change in Location of Place of Business
5.43.080	Suspension or Revocation of License—Notice and Hearing
5.43.090	City Codes
5.43.100	Revocation and Penalty
5.43.110	Severability

5.43.010 Definitions. For the purpose of this Chapter, the following words and phrases shall be defined as follows:

“Bail Bond Business” means any business that acts as a surety and pledges money or property as bail for the appearance of a criminal defendant in court.

“Distance-Restricted Business” means any Bail Bond Business, Pawnbroker, Payday Loan Business, Small-Box Discount Retailer, Thrift Store, or Title Loan Business.

“Pawnbroker” is as defined in Section 5.42.010 of the Olathe Municipal Code.

“Payday Loan Business” means any business regulated by K.S.A. § 16a-2-404, as the same may be amended from time to time, except financial institutions, as defined by K.S.A. § 16-117.

“Person” means any individual, firm, company, partnership, corporation or association.

“Small-Box Discount Retailer” means a retail business that sells a wide range of inexpensive household goods for a profit with a building footprint of less than 15,000 square feet.

“Thrift Store” means a retail business selling second-hand and/or donated clothes and other household goods typically to raise funds for a charitable institution. This term does not include antique shops (for-profit businesses where collectible or valuable older items are purchased by the shop or individuals leasing space at the shop then re-sold for profit); consignment shops (for-profit businesses where an individual sells a used item and the shop takes a percentage of the sales profit in return); swap meets, flea markets or vintage/antique fairs associated with a City-approved Temporary Sales or Event Permit; Pawnbrokers; garage sales; or non-profit home improvement stores (not-for-profit businesses which sell donated new and used building materials, including electrical fixtures, appliances, kitchen cabinets, home furnishings and various types of hardware and tools at greatly reduced prices).

“Title” means a form issued by a Department of Motor Vehicles establishing a Person or business as legal owner of a Vehicle.

“Title Loan Business” means, except as provided below, a business which performs a consumer loan transaction made for a period of sixty (60) days or less, secured by Title to a vehicle. It shall not include a purchase money consumer loan or a loan made pursuant to subsection (2) of K.S.A. 16a-2-401 and amendments thereto.

“Vehicle” means every device in, upon or by which any Person or property is or may be transported or drawn upon a public highway and the ownership of which is evidenced by a Certificate of Title. (Ord. 16-24 § 2, 2016.)

5.43.020 License Required. It shall be unlawful for any Person to engage in or continue a Distance-Restricted Business without first obtaining a license from the City Clerk. Any Distance-Restricted Business lawfully in existence on the effective date of this Section is required to obtain the license required hereunder within sixty (60) days of such effective date. The initial license will cover the period from the date the business is commenced, or in the case of a business lawfully in existence on the date of adoption, from the date the business is first licensed hereunder, until the next annual renewal date. Thereafter, each license shall be valid for one year and must be renewed annually. (Ord. 16-24 § 2, 2016.)

5.43.030 Application for License and Fees. All applications for a license must be in writing and provide:

- A. the full name and place of residence of the applicant and spouse of the applicant (if applicable);
- B. if the applicant is a partnership, the application must the name and place of residence of each member thereof; or,
- C. if a corporation or association, of each officer, shareholder or member thereof;
- D. the application must include the address of the place where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in a Distance-Restricted Business, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this Chapter.
- E. Each applicant must submit a copy of the lease with the application if the applicant is not the owner of the premises where the business will be operating.

The license application must be submitted to the City Clerk in a form approved by the City Clerk. Each application must be accompanied by a fee which must be paid annually upon renewal of the license. Such fee will be adopted by the Governing Body of the City by resolution. All fees paid in accordance with this Section are in addition to, and not in lieu of, any other fees or licenses required to be paid or obtained under any other provision of this Code and are non-refundable.

The City Clerk will mail the notice of renewal to a licensee’s place of business no later than fifteen (15) days prior to the expiration date of the license. (Ord. 16-24 § 2, 2016.)

5.43.040 Issuance of License. After the filing of an application in the proper form, the City Clerk will examine the application, and after such examination, the City Clerk will issue a license for a Distance-Restricted Business unless the City Clerk finds that:

- A. The Distance-Restricted Business is located within 5,280 feet of any other Distance-Restricted Business of the same type or within 200 feet of any property used for residential purposes, including but not limited to, any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances will be measured from the nearest property line of the residentially zoned property to the outer wall of the Distance-Restricted Business;

B. The Person submitted an application for a license to operate a Distance-Restricted Business at a location prohibited by any applicable local, state, or federal law, statute, ordinance, rule or regulation; provided, however, a Distance-Restricted Business lawfully in existence on the effective date of this Section will be considered lawfully nonconforming and permitted to obtain a license hereunder and continue in operation in accordance with Chapter 18.60 of the Unified Development Ordinance;

C. The correct license fee has not been paid to the City;

D. The applicant knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;

E. The applicant is not a citizen of the United States;

F. The applicant 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 has forfeited a bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to the application;

G. The applicant had a license denied, revoked, or suspended for cause by the City or any other state or local agency within five (5) years prior to the date of the application;

H. The applicant is not at least twenty-one (21) years of age;

I. The applicant would be ineligible to receive a license under the provisions of this Chapter;

J. The applicant does not own the premises for which a license is sought, unless the applicant has a written lease for at least three-fourths of the period for which the license is to be issued;

K. The applicant's spouse would be ineligible to receive a license for any reason other than the age, citizenship and residence requirements;

L. Any partner is ineligible to receive a license; and

M. Any officer, manager, or director is ineligible to receive a license. (Ord. 16-24 § 2, 2016.)

5.43.050 License Requirements. The document or other instrument evidencing the license of a Distance-Restricted Business must state the address where the business is to be conducted and the name of the licensee. If the licensee is a partnership, the license must state the names of all partners thereof, and, if a corporation, the date and place of its incorporation. Such license will be kept conspicuously posted in the place of business and is not transferable or assignable. Failure to keep the license posted in the manner required by this Section is prima facie evidence that the business has not obtained the required license. Not more than one place of business may be maintained under the same license. Additionally, should the structure of the business change in form (e.g., partnership to corporation, etc.) then a new license will be required and it must be obtained through the application process contained in Section 5.43.030. (Ord. 16-24 § 2, 2016.)

5.43.060 Nonuse of License. If a Distance-Restricted Business does not conduct business for a period of ninety (90) days, the license will be void. (Ord. 16-24 § 2, 2016.)

5.43.070 Change in Location of Place of Business. If a licensee changes the location of the business within the City, and such location conforms with the provisions of Section 5.43.040 (A & B), the licensee will give written notice within two days of the change to the City Clerk who will issue a license which will show, in addition to all of the information appearing on the initial license, a record of any change of location and the date thereof, which new license authorizes operation of the business at the new location. The licensee will return the initial license to the City Clerk as soon as the new license has been received. Additionally, if such change of location involves a new lease, such lease must meet the requirements of Section 5.43.040(J) and a copy must be submitted to the City Clerk along with the written notice provided for above. (Ord. 16-24 § 2, 2016.)

5.43.080 Suspension or Revocation of License.

A. Any license issued under this Chapter may be suspended or revoked after a public hearing before the City Manager or designated representative where it is found that any of the provisions of this Chapter have been violated or where the licensee or any employee of the licensee has been convicted of any offense found in this Chapter and the licensee has actual or constructive knowledge of the violation or conviction, or where the licensee or employee of the licensee refuses to permit any duly authorized law enforcement officer to inspect the premises during any hours when the establishment is open to the public, or if the licensee 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 has forfeited a bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten (10) years immediately prior to the date of the licensee's application.

B. If the City Clerk or designated representative denies issuance of a license, or issues an order suspending or revoking a license, the licensee, up to but not more than fifteen (15) days after the order, may appeal such denial or order to the City Manager or designated representative.

C. If the City Manager or designated representative issues an order upholding the denial, suspension, or revocation of the license, the licensee, up to but not more than thirty (30) days after the order, may appeal the order to the District Court of Johnson County.

D. Any appeal taken under this Section will stay the order of suspension or revocation of the license. (Ord. 16-24 § 2, 2016.)

5.43.090 City Codes. No Distance-Restricted Business license may be issued or renewed if the business is not in compliance with the City's zoning, building or fire codes. (Ord. 16-24 § 2, 2016.)

5.43.100 Revocation and Penalty. Any license issued pursuant to this Chapter shall be subject to revocation for violation of any provision of this Chapter or any applicable local, state or federal law, statute, ordinance, rule or regulation. If the underlying zoning approval upon which a license is based is revoked or otherwise terminated, the license will also be simultaneously revoked. Any person violating any provision of this Chapter, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or shall be imprisoned for a period not to exceed sixty (60) days, or shall be both fined and imprisoned. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 16-24 § 2, 2016.)

5.43.110 Severability. If 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. (Ord. 16-24 § 2, 2016.)

CHAPTER 5.44

TOWING OF VEHICLES

Sections:

5.44.010	Purpose and Intent.
5.44.020	License Required.
5.44.030	Definitions.
5.44.040	Issuance, Renewal and Denial of License.
5.44.050	Fees.
5.44.060	Rates and Charges.
5.44.070	Accountability.
5.44.080	Notice Requirements.
5.44.090	Regulations.
5.44.100	Revocation and Suspension.
5.44.110	Penalty.

5.44.010 Purpose and Intent.

(a) It is hereby declared by the City Council that in order to protect the public, protect the rights of property owners, protect the rights of persons whose cars may be towed, and to preserve the peace of the community, the licensing and regulation of business enterprises engaged in the practice of towing, removing and storing of motor vehicles from private property are matters affecting the public interest and any persons desiring to conduct such a business enterprise shall be required to obtain a license and obey the regulations as hereinafter provided.

(b) The purpose of this chapter is to provide a uniform system for the licensing and regulation of business enterprises which are engaged in or which intend to engage in the practice of private property impound towing from non-residential property. (Ord. 92-55 § 1, 1992; Ord. 90-102 § 1, 1990.)

5.44.020 License Required.

(a) It shall be unlawful for any business enterprise to engage in the business of private property impound towing from non-residential property without first having secured a license from the City to do so.

EXCEPTION: The provisions of this chapter shall not apply to a police requested tow pursuant to section 10.01.084 of this code, the towing of motor vehicles done at the request of the vehicle owner, driver or person in charge of the motor vehicle, or to an emergency tow from private property. For the purposes of this chapter an emergency tow from private property shall mean any situations where a vehicle is left unattended so as to constitute a definite hazard or obstruction to the normal movement of traffic or potentially dangerous or a hazard to any lawful function.

(b) There is no requirement that employees of such business enterprise have the license provided for by this chapter. The business enterprise itself shall apply for, obtain and maintain the license.

(c) If required by state or federal law, any driver of a tow truck shall have a valid commercial driver's license and a medical certificate.

(d) If required by state law, any business enterprise engaged in the business of private property impound towing shall be licensed by the KCC Authority. (Ord. 97-103 § 1, 1997; Ord. 92-55 § 2, 1992; Ord. 90-106 § 1, 1990; Ord. 90-102 § 1, 1990.)

5.44.030 Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Business enterprise: A unit of economic organization or activity in the form of person, firm, partnership, corporation, trust or association.

Third Party Tow: The towing for hire of vehicles from private property without the permission or authority of the vehicle owner or their authorized representative.

Private Property Impound Tow: A third party tow in which the vehicle is impounded and held subject to the payment of a fee.

Property owner: Any person in lawful possession of private real property, including but not limited to the legal title holder, lessee or property manager. In no case shall any owner, operator or agent of a business enterprise engaged in the towing of vehicles from private property be considered a property owner unless he is the legal title holder or in possession of said property.

Removing: The act of changing by towing, the location of a parked vehicle from its location on private property other than residential property to a storage site.

Storing: To place and leave a towed vehicle at a properly zoned site where the business enterprise or another business enterprise exercises control and supervision over the vehicle.

Towing: Drawing or pulling a vehicle by means of another vehicle equipped with booms, car carriers, winches or similar equipment.

Non-Residential Property: Property located in the City zoned or used for commercial or industrial purposes.

Private Property: Nongovernmental owned property. (Ord. 92-55 § 3, 1992; Ord. 90-102 § 1, 1990.)

5.44.040 Issuance, Renewal and Denial of License.

(a) The city manager or his authorized representative shall approve issuance or renewal of a license hereunder where he finds:

(1) That the applying business enterprise does not have as an officer or director, if a corporation, as a partner, if a partnership, or as a sole proprietor, if a sole proprietorship, a person who is or was an officer, director, partner or sole proprietor of a business enterprise which has had its towing license revoked by action of the city manager within five (5) years of the date of application, or who has been convicted of any theft-related crime, crime involving violence or fraudulent crime within the past seven (7) years.

(2) That the tow or storage yard has been inspected and found to be in compliance with the requirements of this chapter, the fire code, the zoning ordinance, and all other applicable laws and city ordinances.

(3) If required by state law, that the business enterprise is licensed by the KCC Authority.

(4) That the business enterprise has presented proof of automobile liability insurance in compliance with the requirements of Kansas statutes.

(5) If required by state or federal law, that each tow truck driver holds a valid commercial driver's license and a medical certificate.

(b) A license issued or renewed pursuant to the provisions of this chapter shall not be assignable or transferable from one business enterprise to another business enterprise.

(c) The license shall remain valid for a period of one (1) year from the date of issuance unless sooner revoked or suspended. (Ord. 97-103 § 2, 1997; Ord. 92-55 § 4, 1992; Ord. 90-102 § 1, 1990.)

5.44.050 Fees. Before a license is issued or renewed, a fee shall be paid to the city. Such fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-127 § 1, 2002; Ord. 90-102 § 1, 1990.)

5.44.060 Rates and Charges. It shall be unlawful to:

(a) Tow a vehicle unless the business enterprise shall file and keep on record with the City Manager, or his authorized representative, a complete copy of the current maximum rates charged for the towing and storage of vehicles on an imprinted tow receipt or ticket.

(b) Charge the registered owner or other authorized person in control of the vehicle fees in excess of those fees filed with the City Manager, or his authorized representative, in accordance with the requirements of this chapter, or Charge the registered owner or other authorized person in control of a vehicle fees for any services other than those reasonably related to the towing and storage of vehicles which are actually garaged. No fee shall be charged for "hoisting," or for "let down" or "standby" fees for allowing the registered owner or other authorized person to retrieve personal property from the impounded vehicle. No fee shall be charged for releasing the vehicle unless such release is at a time other than between 8:00 a.m. and 5:00 p.m., Monday through Friday, or unless such release is on the following holidays: New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

(c) Tow or remove or store a vehicle unless the current rates charged for the towing and storage of vehicles are posted in an open and conspicuous public place on the premises from which the vehicle is removed and of the business enterprise doing the towing or listed on a conspicuous notice placed on the vehicle twenty-four (24) hours prior to the tow.

(d) Pay or rebate money, or solicit or offer the payment or rebate of money, or other valuable consideration to property owners for the privilege of towing or removing vehicles. (Ord. 92-55 § 5, 1992; Ord. 90-102 § 1, 1990.)

5.44.070 Accountability. The wrecker or towing service shall:

(a) allow the owner of a vehicle towed to have access to personal property in such vehicle for forty-eight (48) hours after such vehicle has been towed and such personal property shall be released to the owner; and

(b) report the location of such vehicle to local law enforcement within two (2) hours of such tow, and

(c) maintain a record of all towing and storage transactions relating to the impounding of vehicles from private property and keep said record on file in the office of the business enterprise. Such records shall include consecutively numbered receipts for all transactions and shall be available for inspection during normal working hours of the business by the City Manager or designee. (Ord. 12-09 § 1, 2012; Ord. 92-55 § 6, 1992; Ord. 90-102 § 1, 1990.)

5.44.080 Notice Requirements. It shall be unlawful to tow a vehicle from nonresidential private property, except in emergency situations as defined in 5.44.020 unless:

(a) The private property owner has posted conspicuous notice at least five (5) feet above ground level on the private property stating that unauthorized vehicles will be towed at the owner's expense, or

(b) At least twenty-four (24) hours prior to towing, a conspicuous notice is placed upon the vehicle indicating that the vehicle will be towed at the owner's expense unless it has been removed within twenty-four (24) hours of said notice. Any such notice shall state the date and time such notice was placed on the vehicle. (Ord. 92-55 § 7, 1992; Ord. 90-102 § 1, 1990.)

5.44.090 Regulations. It shall be unlawful to:

(a) Tow or remove or store a vehicle where the registered owner or other legally authorized person in control of the vehicle arrives at the scene of potential towing prior to towing or removal.

(b) Tow or remove a vehicle occupied by a person or persons.

(c) Tow or remove or store a vehicle unless the towing business enterprise notifies the city police department immediately upon arrival at the garage. Such notification shall include the storage site, the time the vehicle was towed or removed, and the make, model, color, license plate number and vehicle identification number of the vehicle.

(d) Tow or remove or store a vehicle unless the vehicle shall be towed directly to the business enterprise's garage and the vehicle shall not be kept in any temporary holding or public area.

(e) Store a vehicle in a garage located further than ten (10) miles from the point of removal unless no closer facility is available. (Ord. 92-55 § 8, 1992; Ord. 90-106 § 2, 1990; Ord. 90-102 § 1, 1990.)

5.44.100 Revocation or Suspension. In addition to the grounds enumerated elsewhere in this chapter, in the event that any person holding a license or permit issued pursuant to this chapter is convicted of any of those crimes enumerated in Section 5.44.090 or repeatedly fails to comply with city vehicle code regulations regarding towing and storage of vehicles within ten (10) days of a notice given by the city manager, or his duly authorized representative, or has received two (2) such notices in any twelve (12) consecutive calendar months or three (3) notices within twenty-four (24) consecutive calendar months, the city manager may, in addition to other penalties provided by this code, suspend or revoke the permit.

Complaints against any business enterprise licensed by the city will be recorded and investigated by the city manager or his duly designated representative. (Ord. 90-102 § 1, 1990.)

5.44.110 Penalty. Any person, firm or corporation violating any provision of this chapter shall be fined not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 90-102 § 1, 1990.)

CHAPTER 5.50

ADULT BUSINESSES

Sections:

5.50.010	Adult Business Regulations Definitions
5.50.020	Applicability
5.50.030	General Regulations and Requirements
5.50.040	Notification Requirements
5.50.050	Licensing and Permitting Requirements
5.50.060	Transfer of Permits, Licenses and Fees
5.50.070	Renewal
5.50.080	Operator Responsibility
5.50.090	Inspections
5.50.100	Regulations
5.50.110	Location and Distance Requirements
5.50.120	Penalties
5.50.130	Liberal Construction
5.50.140	Invalidity

5.50.010 Adult Business Regulations Definitions Generally. For the purpose of this Chapter, the words and phrases used herein shall have the meanings established in this Article unless otherwise clearly indicated by the context.

ADULT: A person who has attained the age of eighteen (18) years.

ADULT ENTERTAINMENT: Any exhibition, dance, pantomime, modeling or other performance predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to depiction or descriptions of “specified sexual activities” or “specified anatomical areas” (separately defined).

ADULT BUSINESS ESTABLISHMENT: Any establishment having as a material portion of its business the offering of entertainment, services, stocks in trade or materials, scenes or other representations predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to depiction or descriptions of “specified sexual activities” or “specified anatomical areas” (separately defined). The definition of “adult business establishment” also includes but is not limited to any and all of the following specific adult businesses as defined herein:

A. **Adult Arcade:** Means any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically, or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices, are maintained to show images on a regular or substantial basis, where the images so displayed relate to specified sexual activities or exhibition of specified anatomical areas.

B. **Adult Encounter Parlor:** Means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees, performers, and/or other customers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual arousal or excitement to such customers.

C. **Adult Entertainment Cabaret:** Means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female, impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or customer.

D. Adult Entertainment Studio (includes the terms “rap studio,” “exotic dance studio,” “sensitivity studio,” or “encounter studio”): Means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials of live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

E. Adult Media Outlet: See definition below.

F. Adult Motel: Means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, videotapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six hours at a time.

G. Adult Motion Picture Theater: Means an enclosed building used for presenting or showing, for money consideration, movie or video films or pictures or other material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined) for observation by customers therein.

H. Adult Newsrack: Means any coin or card operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

I. Adult Retail Establishment: Means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the material sold or rented in an “adult media outlet” as defined below, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.” For purposes of this subsection, the presumptions relative to what constitutes a “substantial or significant” portion of business set forth in the definition whether an item is “designed or marketed for use” in connection with specified sexual activities, the following guidelines may be considered:

1. Expert testimony as to the principle use of the term;
2. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
3. National and local advertising concerning the use of the item;
4. Evidence of advertising concerning the nature of the business establishment;
5. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
6. The physical or structural characteristics of the item;
7. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.
8. Any person may request an interpretive ruling from the Chief of Police, or his designee, as to whether a particular item is considered by the City to be “designed or marketed for use” in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the City Clerk within fifteen (15) days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

J. Adult Theater: Means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by customers.

K. **Bathhouse:** Means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

L. **Body Painting Studio:** Means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique, or process when the subject's body displays for customer view specified anatomical areas.

M. **Escort Bureau:** Any person, business or agency which, for a fee, commission, hire, reward or profit, furnishes or offers to furnish escorts or persons who, for hire or reward, accompany others to or about social affairs, entertainment or places of amusement or who consort with others, for hire or reward, about any place of public resort or within any private quarters.

ADULT MEDIA: Magazines, books, videotapes, movies, slides, paraphernalia or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (separately defined).

ADULT MEDIA OUTLET: An establishment that rents, sells or offers for viewing or other use any adult media and which meets at least one of the following tests:

For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of such items if any one or more of the following criteria are satisfied:

A. More than thirty percent (30%) of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public); or

B. More than thirty percent (30%) of the gross sales (including rentals) result from the sale or rental of adult media;

C. Thirty percent (30%) or more of the dollar value of all merchandise displayed at any time is attributable to adult media;

D. Thirty percent (30%) or more of all inventory consists of adult media at any time;

E. Thirty percent (30%) or more of the merchandise displayed for sale consists of adult media;

F. Thirty percent (30%) or more of the stock in trade consists of such items at any time.

BOOTH: A small enclosure that separates the occupant from patrons or customers.

CONTAGIOUS AND COMMUNICABLE DISEASES: Those diseases which are set out in the Kansas Department of Health and Environment Regulations, K.A.R. 28-1-16, as amended.

CUSTOMER: Any person who:

A. Is allowed to enter an adult business establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or

B. Enters an adult business establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

C. Is a member of or on the premises of an adult business establishment operating as a private club.

DAYCARE FACILITY: Any establishment that provides, on a regular basis, supervision, protection, and care for individuals on a regular basis away from their primary residences for less than 24 hours per day.

EMPLOYEE: Any person who renders any service whatsoever to the customers of an adult business establishment or who works in or about an adult business establishment and who receives compensation for such service or work from the operator or owner of the business or from the customers therein. "Employee" includes, but is not limited to, managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult business establishment.

ENTERTAINER: Any person who provides adult entertainment within an adult business establishment, whether or not a fee is charged or accepted for the entertainment.

EROTIC: Devoted to or tending to arouse or excite sexual desires.

FOOTCANDLE: A unit of illumination lighting a surface, on which there is uniformly distributed a light flux of one lumen over an area of one square foot. A lumen is a unit of measure of the quantity of light energy emitted by a light source without regard to the effectiveness of its distribution. A candela is the unit of intensity of a light source in a specific direction. One candela directed perpendicular to a surface one foot away generates one footcandle of light. A light source of one candela emits a total of 12.57 lumens. For the purposes of this Ordinance, the lumen output values shall be the initial lumen output ratings of a lamp.

GROUP BOARDING HOME FOR ADULTS: Means a residential dwelling unit for six (6) or more persons, eighteen (18) years of age or over.

GROUP BOARDING HOME FOR MINORS: Means a residential facility for six (6) or more persons under eighteen (18) years of age who for various reasons cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation exists under license of the Kansas Secretary of Health and Environment.

MANAGER: Any person who manages, directs, administers, or is in charge of the affairs of or conduct of any portion of any activity of any adult business.

MINOR: A person less than eighteen (18) years of age.

NUDITY: Exposing any of the human male or female genitals, pubic hair or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering below a point immediately below the top of the areola or the showing of the covered male genitals in a discernible turgid state.

NURSING FACILITY: Means a building, or a group of buildings, where for compensation pursuant to the previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital.

OPERATE: To own, conduct or maintain the affairs of an adult business establishment.

OPERATOR: Any person, partnership or corporation operating, conducting or maintaining an adult business establishment.

PARK: Any public or private land designated for park or recreational activities but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness area, or similar land.

PERSON: Any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity or other entity or group of persons however organized.

RELIGIOUS INSTITUTION: A structure or site such as a church, synagogue, chapel, sanctuary, or cathedral used primarily for religious activity or worship and related religious activities.

RESIDENTIAL ZONE: Any property within the City which is zoned or used for residential purposes. The zoning designations refer to the sections in Title 18 of the Unified Development Ordinance as may be amended from time to time and include any property in the City which is zoned AG (Agricultural), RR (Rural Residential), R-1 (Single Family), RP-1 (Planned Single Family Residential), R-2 (Two Family) RP-2 (Planned Two-Family Residential), R-3 (Low-Density Apartment/Townhouse), RP-3 (Planned Low-Density Apartment/Townhouse), R-4 (Garden Apartment), RP-4 (Planned Garden Apartment), R-5 (Apartment House), RP-5 (Planned Apartment House), TN (Traditional Neighborhood), NC (Neighborhood Center), and MPH (Manufactured Home Park).

SCHOOL: Any institution of learning, whether public or private. This definition includes, but is not limited to a nursery school, kindergarten, elementary school, junior high school, senior high school, college and university.

SPECIFIED ANATOMICAL AREAS: These include:

A. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and

B. Human or simulated male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Sexual conduct including but not limited to:

A. Human genitals in a state of sexual stimulation or arousal; and/or

B. Acts of human masturbation, sexual intercourse or arousal; and/or

C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or

D. Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; and/or

E. Human excretion, urination, menstruation, vaginal or anal irrigation; and/or

F. Fondling or other erotic touching of clothed or unclothed human genitals, pubic region, buttock, or female breast; and/or

G. Acts involving animals or latent objects. (Ord. 01-39 § 1, 2001.)

5.50.020 Applicability.

A. The establishment of any adult business establishment subject to these regulations shall include any of the following activities:

1. The opening of such a business as a new business.

2. The relocation of an adult business establishment.

3. The conversion of an existing business to an adult business establishment.

4. An increase of the square footage of an existing adult business establishment.

5. The conversion of an existing adult business establishment to a different type of adult business establishment.

B. An adult business establishment existing prior to the effective date of this Ordinance shall:

1. Submit an application for an adult business establishment license no later than October 1, 2001;

2. Shall cease operations on April 1, 2002, unless it has secured, by that date, an adult business establishment license pursuant to this Ordinance; and
3. Shall be subject to all other provisions of this Ordinance except Section 5.50.110 as of April 1, 2002.

C. Any adult business establishment existing prior to the effective date of this ordinance that does not comply with Section 5.50.110 shall:

1. Be deemed a non-conforming business; and
2. Not be increased, enlarged, extended or altered except that such business may be changed to a conforming business.

D. An adult business establishment lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the granting or renewal of the adult business license, of a school, park, religious institution, group home, nursing facility, hospital, library or property zoned or used for residential purposes located within the City limits and within 1,000 feet of the adult business establishment. This provision applies only to the renewal of a valid adult business establishment license and does not apply when an application for a new business license is submitted after a previous license has lapsed or has been revoked. (Ord. 01-39 § 1, 2001.)

5.50.030 General Regulations and Requirements.

A. Age Restriction: Only adults as defined in Section 5.50.120 of this Chapter, shall be permitted on the premises of any adult business establishment. If alcoholic or cereal malt beverages are sold or served on the premises, only persons twenty-one (21) years of age or older may be permitted on the premises.

B. Hours of Operation: It shall be unlawful for any adult business establishment to be conducted, operated, or otherwise open to the public, customers or members between the hours of 12:00 midnight and 10:00 a.m., Monday through Saturday. No adult business establishment shall be open on any Sunday.

C. Exterior Display: The premises of all adult business establishments shall be so constructed as to ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all exterior doorways must be constructed with an anteroom or foyer so as to prevent observation of the interior of the premises from the exterior of the building.

D. Nudity Prohibited: No manager, employee, entertainer or customer in an adult business establishment shall be unclothed, nude or in such less-than-opaque and complete attire, costume or clothing, so as to expose to view any "specified anatomical area".

E. Protective Barrier Required: Any adult business establishment engaging in the display or performance of live models, dancers, entertainers or other performers shall erect a platform at least two feet (2') above the primary level of the customer floor level on which the employee or entertainer must be contained, shall not permit customers within ten feet (10') of the employee or entertainer and shall, in addition, erect a protective barrier from floor to ceiling, of sufficient strength to prevent customers from entering the area of the employee or entertainer or touching the employee or entertainer in any manner. Further, it shall be unlawful for any customer to be upon any portion of the stage during a performance or for an owner, operator, or manager to permit a customer to be upon any portion of the stage during the performance.

F. Erotic Touching Prohibited: No employee, dancer, entertainer or customer of an adult business establishment shall be permitted to manually or through other bodily contact stimulate the genitals, pubic region, breasts or buttocks of themselves or any other person.

G. Display or Performance: No adult business establishment shall permit any employee, entertainer, model, dancer, other performer or customer to participate in any entertainment, live display or performance which depicts, describes or simulates "specified sexual activities" or contains any acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

H. Devices: No employee, model, dancer, entertainer, other performer or customer shall wear or use any device or covering exposed to view which simulates any "specified anatomical area," nor shall any employee, model, dancer, entertainer, other performer or customer use artificial devices or inanimate objects to depict any of the prohibited activities described in this Chapter.

I. Entertainer Payment or Gratuity: No model, dancer, entertainer or other performer while on the premises of an adult business establishment, shall solicit, demand or receive any payment or gratuity from any customer directly, rather all gratuities shall be placed in a permanently affixed receptacle provided for gratuities. No gratuity may be offered or accepted while a performance is being conducted.

J. Lighting: All adult business establishments, shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than two (2) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

K. Vending Machines Prohibited: No coin or token operated vending machine which sells adult media may be located in a place open to the public, except that said machines are permitted in public places from which minors are excluded.

L. Closed Booths or Rooms Prohibited: The premises of all adult business establishments shall be physically arranged in such a manner that the entire interior portion of any booths, cubicles, rooms, or stalls is visible from a public common area of the premises.

1. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.
2. The entire body of any viewing person must also be visible from the public, common area, without the assistance of mirrors or other viewing aids.
3. No booth shall be occupied by more than one customer at a time.
4. No holes shall be permitted between booths or individual viewing areas.

M. Identification Cards: Any adult business employee issued a permit by the City Clerk under the provisions contained herein shall, at all times when working in an adult business establishment, have in such employee's possession a valid identification card issued by the City, bearing the permit number, the employee's physical description, and a photograph of such employee. Such identification card shall be laminated to prevent alteration.

N. Ventilation and Sanitation Requirements: The premises of all adult business establishments shall be kept in a sanitary condition. Separate dressing rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

O. Manager on Premises:

1. A permitted manager shall be on duty at all adult business establishments at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.
2. It shall be the responsibility of the manager to verify that every employee within any adult business establishment possesses a current and valid permit and have in their possession a current and valid identification card at all times while working.

P. General Prohibitions: No owner, operator, manager, or other person in charge of the premises of an adult business establishment shall:

1. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current liquor license as required by Title 7;
2. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
3. Knowingly allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult business establishment or any person under the age of twenty-one (21) if alcohol or cereal malt beverages are sold;
4. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by state law or City ordinance;
5. Knowingly allow or permit a violation of this Chapter or applicable City ordinance; or
6. Knowingly allow any entertainer, employee, manager, or operator to perform any work, service, or entertainment directly related to the operation of an unlicensed adult business.

Q. Facilities Necessary: No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the Director of Development Services, or his/her authorized representative reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free of any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron.

No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

2. Toilet facilities shall be provided in convenient locations. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilet facilities shall be designated as to the gender accommodated therein.

3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Director of Development Services shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises nor to preclude authorized inspection thereof. The Director of Development Services may recommend the issuance of a license contingent upon compliance with all requirements of this Section. (Ord. 01-39 § 1, 2001.)

5.50.040 Notification Requirements.

Signage: All adult business establishments shall maintain on the premises a sign on which the upper-case letters shall be at least two inches (2") high, and lower-case letters shall be at least one inch (1") high, which shall be conspicuously displayed in the common area at the principal entrance to the adult business establishment and which shall read as follows:

*THIS ADULT BUSINESS IS
REGULATED BY THE CITY OF OLATHE, KANSAS*

EMPLOYEES, MODELS, DANCERS AND ENTERTAINERS:

- *Are not permitted to engage in any type of sexual conduct or in prostitution on the premises, or to fondle or caress the breasts, pubic region, buttocks, or genitals of any employee, customer, or other entertainer or to permit any employee, customer or other entertainer to fondle or caress the breasts, pubic region, buttocks, or genitals of said entertainer.*
- *Are not permitted to solicit, demand or receive any payment or gratuity from any customer, except as follows: A gratuity may be placed in a permanently affixed receptacle provided for gratuities but not while a performance is being conducted.*
- *NO nudity is permitted.*

Customers are:

- *Not permitted to be upon stage at any time.*
- *Not permitted to caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server, entertainer, or customer or engage in solicitation for prostitution.*

(Ord. 01-39 § 1, 2001.)

5.50.050 Licensing and Permitting Requirements.

A. Adult Business Establishment License Required: No person shall operate an adult business establishment without having first obtained an annual adult business license from the City Clerk. A separate license shall be required for each and every separate place of business conducted by any one applicant. Such permit shall be valid only from January 1 to December 31. Every person obtaining an adult business license shall post such license in a conspicuous place and manner on the adult business establishment premises. The failure to post an adult business license in the manner required herein shall be prima facie evidence that the adult business does not have such a license. In addition, it shall be prima facie evidence that any entertainer, employee, manager, or owner who performs any business, service, or entertainment in an adult business in which an adult business license is not posted in the manner required herein has knowledge that such business is not licensed.

1. License Application: When making application to the City for an adult business establishment license, the applicant shall provide the following information which shall be signed by the applicant, verified, notarized and be accompanied by the license and classification fees:

- a. The name, residence address, home telephone number, date and place of birth and social security number of the applicant and his relationship to the business.
- b. The business name, address and telephone number of the establishment. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.
- c. The names, residence addresses, residence telephone numbers, social security numbers and dates of birth of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment.
- d. The name, address and telephone number of the owner of the property at which the business will be located.

e. A description of the adult entertainment or similar business history of the applicant and of all the partners and of all corporate officers and directors and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment previously operating in this or another city, county or state, where it has had a business license revoked or suspended, the reason therefor and the activity or occupation subjected to such action, suspension or revocation.

f. A verified statement from the applicant, and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment that each such person has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances.

g. A full set of fingerprints and two (2) photographs, to be taken by the Olathe Police Department, of the applicants and of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment.

h. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State.

i. On applications requesting a license or renewal of license to operate a bathhouse or body painting studio, the applicant shall provide for each employee, a health certificate from a duly licensed Kansas physician stating that within 30 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease. For each person who is subsequently employed, a health certificate shall be submitted to the City Clerk 48 hours prior to the time such person begins employment.

B. Employee Permit Required: All persons employed in an adult business establishment, including managers or operators, must annually obtain an adult business employee permit. This permit will be valid from January 1 to December 31.

1. **Permit Application:** Any person applying for an adult business employee permit shall provide the following information which shall be signed by the applicant, be verified, notarized and be accompanied by the license and classification fees:

a. The applicant's name, home address, home telephone number, date of birth, social security number, and any stage names or nicknames used in entertaining or performing.

b. The name and address of each business at which the applicant intends to work as a manager, operator, employee or dancer, model, entertainer, or other performer.

c. A statement from the applicant that he/she has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances.

d. A full set of fingerprints and two (2) photographs taken by the Olathe Police Department.

e. The applicant shall provide documentation that he has attained the age of eighteen (18) years or twenty-one (21) years of age if the adult business establishment in which the applicant will be working sells or serves alcoholic or cereal malt beverages. Any of the following shall be accepted as documentation of age:

- 1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
- 2) A state-issued identification card bearing the applicant's photograph and date of birth;
- 3) An official and valid passport issued by the United States of America;
- 4) An immigration card issued by the United States of America;
- 5) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
- 6) Any other form of identification deemed reliable by the City Clerk.

f. A statement signed under oath that the applicant has personal knowledge that the information in the permit application is true and correct and that the applicant has read the provisions of this ordinance regulating adult business establishments.

C. License, classification and fees. The application for a license shall be accompanied by payment in full of licensing and classification fees paid by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid. Such licensing and classification fees shall be adopted by the Governing Body of the City by resolution.

D. Application Processing: Upon receipt of an application for an adult business establishment license or adult business employee permit, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Director of Development Services.

It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license or permit. The Chief of Police shall report the results of the investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. It shall be the duty of the Director of Development Services to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Director of Development Services shall report the results of his/her investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police and the Director of Development Services, the City Clerk shall determine if the license application meets the criteria for approval and shall issue license if it does and deny the license if it does not.

E. Criteria for Approval: A license or permit shall be issued if the City finds that:

1. The business for which a license is required will be conducted in a building, structure and location which complies with the requirements and standards of the applicable zoning and building codes of the City (see Titles 15 and 18) as well as the requirements of this Chapter; and
2. The applicant has not made any knowingly false, misleading or fraudulent statement of material fact in the application for a license or permit or in any report or record which may be required to be filed with the City Clerk; and
3. The applicant and all employees, agents, partners, directors, officers or managers shall have attained the age of eighteen (18) years, or if the business for which the license is required sells or serves alcoholic or cereal malt beverages, then the applicant and all employees, agents, partners, directors, officers or managers have attained the age of twenty-one (21) years; and

4. The applicant or any partner or any stockholder, partner, or member who owns more than 10% interest in such entity has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances; and

5. The applicant or any stockholder, partner, or member who owns more than 10% interest in such entity has not had a license or permit issued under the provisions of this Article or another state, county or municipality's regulations governing adult entertainment or similar businesses revoked within five (5) years immediately preceding the application.

F. Disapproval of Application: If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Johnson County District Court in a manner provided by law. Such appeal shall be filed within thirty (30) days of the final decision of the City Clerk. The action taken by the City Clerk to issue or to deny issuance of a license shall be final and subject to judicial review.

G. Suspension and Revocation of License: Whenever the City has information that:

1. The owner or operator of an adult business establishment has violated or knowingly allowed or permitted the violation of any of the provisions of this Chapter; or

2. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the owner or operator of an adult business establishment knew or should have known that such violations were committed; or

3. The adult business establishment license was obtained through knowingly false statements in the application for such license or renewal thereof; or

4. The adult business establishment knowingly failed to make a complete disclosure of all information in the application for such license or renewal thereof; or

5. The owner or operator or any stockholder, partner, or member who owns more than 10% interest in such entity has become disqualified from having a license by a conviction or diversion described in subsection E of this Section, Criteria for Approval; or

6. Any cost or fee required to be paid by this Chapter is not paid; or

7. An operator employs anyone who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs as an entertainer without a permit.

8. then, the City may, upon five (5) days of posting notice on the adult business establishment's principal entrance, suspend the business license for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the City Clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing and shall be served upon the licensee or by registered or certified mail to the licensee's last known business address. In the event that the City is not able to serve notice upon the licensee, and any notice sent by mail is returned by the postal service, the City shall cause such notice to be posted at the principal entrance of the adult business establishment, and such posting shall be a valid means of service. If the City Clerk finds and concludes from the evidence that the licensee has violated any of the above provisions, he/she may suspend, revoke or, in the case of a renewal application, refuse to renew such license. Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this ordinance, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

H. Suspension and Revocation of Permit: Whenever the City has information that:

1. The permittee has violated or knowingly allowed or permitted the violation of any of the provisions of this Chapter; or
2. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the permittee knew or should have known that such violations were committed; or
3. The adult business employee permit was obtained through knowingly false statements in the application for such permit or renewal thereof; or
4. The permittee knowingly failed to make a complete disclosure of all information in the application for such permit or renewal thereof; or
5. The permittee has become disqualified from having a permit by a conviction or diversion described in subsection E of this Section, Criteria for Approval; or
6. The adult business establishment license for the business in which the permittee is working has been suspended or revoked.

then, the City may, five (5) days after sending notice to the permittee by placing such notice in the U.S. mail to the home address provided on the permittee's application, suspend the permit for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the City Clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing and shall be served upon the permittee in person or by registered or certified mail to the address provided on the permittee's application.

In the event that the City is not able to serve notice upon the permittee in person, and any notice sent by mail is returned by the postal service, service shall still be considered valid. An appeal taken from an order of suspension shall not suspend the order of suspension during the pendency of any such appeal. If the City finds and concludes from the evidence that the permittee has violated any of the above provisions, it may suspend, revoke or, in the case of a renewal application, refuse to renew such permit. Following the entry of an order by the City Clerk suspending or revoking a permit issued pursuant to this ordinance, such permittee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

I. Change of Address: Any adult business establishment changing its address must reapply for an adult business establishment license and pay the appropriate license and classification fee. The application must be provided to the City Clerk's office prior to opening at the new location. (Ord. 02-128 § 1, 2002; Ord. 01-39 § 1, 2001.)

5.50.060 Transfer of Permits, Licenses and Fees.

A. Business licenses and employee permits are not transferable, and such authority as a license or permit confers shall be conferred only on the individual or business named therein.

B. Any applications made, fees paid and licenses or permits obtained under any of the provisions of this Chapter shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinance of this City.

C. All adult business licenses shall be issued only for the one adult business use listed on the application. Any change in the type of adult use shall invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use. (Ord. 01-39 § 1, 2001.)

5.50.070 Renewal.

A. A license or permit may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses and permits shall expire on December 31 of each calendar year, and renewal applications for such licenses and permits shall be submitted between December 16 and December 31.

B. Upon timely application and review as provided for a new license or permit, a license or permit issued under the provisions of this ordinance shall be renewed by issuance of a new license or permit in the manner provided herein.

C. If the application for renewal of license or permit is not made during the time provided herein, the expiration of such license or permit shall not be affected, and a new application shall be required.

D. Following the entry of an order by the City Clerk disapproving the renewal application for a license or permit, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review. (Ord. 01-39 § 1, 2001.)

5.50.080 Operator Responsibility. In addition to the other requirements set out in this Chapter, the operator of an adult business establishment shall also have the following responsibilities:

A. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed an act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

B. The operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator for the purposes of determining whether the license for the adult business establishment shall be suspended, revoked or renewed.

C. The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birth date, sex, weight, color of hair and eyes, phone numbers, Social Security Number, date of employment, and termination, and duties of each employee.

The above information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination. The operator shall make the register of employees available immediately upon demand of any law enforcement officer at all reasonable times. (Ord. 01-39 § 1, 2001.)

5.50.090 Inspections.

A. Any duly authorized officer of the City, including, but not limited to, Police Officers, Code Enforcement Officers, Planning Department employees, Fire Department officials, may, from time to time, make an inspection of each adult business establishment for the purposes of determining that the provisions of this Chapter are complied with. Such inspections shall be at reasonable times and in a reasonable manner. It shall be unlawful for anyone to fail to allow such officer immediate access to the premises or to hinder such officer in any manner.

B. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business establishment" as defined herein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of business. (Ord. 01-39 § 1, 2001.)

5.50.100 Regulations. The City Manager shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of this Chapter and which are not inconsistent with the provisions of this Chapter. (Ord. 01-39 § 1, 2001.)

5.50.110 Location and Distance Requirements.

A. Adult business establishments may be located in any property zoned M-3 and MP-3. No adult business establishment shall be located in any zoning district of the City except M-3 and MP-3.

B. Residential: Adult business establishments may not be located within one thousand feet (1,000') of any residentially zoned property.

C. Schools, Parks, Religious Institutions, Group Homes, Nursing Facility, Hospitals and Libraries: No adult business establishment shall be permitted to locate or expand within one thousand feet (1,000') of any private or public school, public park, daycare facility, group home for adults or minors, nursing facility, hospital, library or religious institution or place of worship.

D. Other Adult Uses: No adult business establishment shall be permitted to locate or expand within two thousand feet (2,000') of another adult business establishment.

E. Facilities With A Liquor License: No adult business establishment shall be permitted to locate or expand within two thousand feet (2,000') of any business licensed to sell or serve alcoholic liquor or cereal malt beverages, whether or not such business is also an adult business establishment as defined in Section 5.50.120 of this Chapter.

F. Measurement of Distance:

1. The distance between any adult business establishment and any religious institution, school, group home, nursing facility, hospital, library, public park or child care facility or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult business use to the closest property line of the religious institution or place of worship, private or public school, public park, child care facility, property zoned for residential use, group home, nursing facility or hospital.

2. The distance between any two (2) adult business establishments or between any adult business establishment and a business licensed to sell or serve alcoholic or cereal malt beverages shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. (Ord. 01-39 § 1, 2001.)

5.50.120 Penalties.

A. Any person who violates the provisions of this Chapter shall be guilty of a Class A Municipal offense and, upon conviction, shall be punished by a fine of not less than One Dollar (\$1.00) but no more than Two Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment for not more than one (1) year or shall be both so fined and imprisoned. In addition, any violation of this Chapter shall be grounds for the City Clerk to revoke any or all licenses or permits issued by the City.

B. Each violation of this Chapter shall be considered a separate offense, and any violation continuing more than one (1) day shall be considered a separate offense for each day of violation.

C. The conduct of any business within the City in violation of any of the terms of this Chapter is hereby found and declared to be a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and enjoinder thereof, in the manner provided by law, and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such adult business establishment and restrain and enjoin any person from conducting, operating, or maintaining an adult business establishment contrary to the provisions of this Chapter. (Ord. 01-39 § 1, 2001.)

5.50.130 Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience. (Ord. 01-39 § 1, 2001.)

5.50.140 Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed Ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances. (Ord. 01-39 § 1, 2001.)

CHAPTER 5.52 Scrap Metal Dealers Registration. Repealed by Ordinance No. 16-25 on 5/3/16. (Ord. 12-04 § 1, 2012.)