

CHAPTER V. BUSINESS REGULATIONS

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ARTICLE 1. LICENSES AND BUSINESS REGULATIONS**5-101. License Required.**

No person, firm or corporation, either as principal, officer, agent, servant or employee, shall conduct, pursue, carry on, or operate in the City, any business, trade, occupation or profession or render or furnish any service hereinafter specified, without first making application to the City Clerk for a license therefore, and paying the license tax hereinafter prescribed at the time said license is issued.

(C.O. No. 1063, Sec. 1, C.O. 28, Ord. 2326)

5-102. Amount of License Tax.

The license tax levied by the City Council shall be for all businesses, trades, professions and occupations to render or furnish any services conducted, pursued, carried on or operated within the limits of the City for each annual period unless a shorter time is specifically stated. All licenses shall be due and payable immediately upon the commencement of the business, trade, occupation or profession or rendering or furnishing any service for which the same are issued. The following taxes shall be as approved by the City Council, based on type of business: (a) Home Occupation within the City, (b) Renaissance Festival Businesses, (c) All Other Businesses in the City, and (d) All Other Businesses Not in the City.

(Ord. 2130; C.O. No. 25; C.O. No. 28; Ord. 2326; Code 2014)

5-103. Specific Provisions to Control.

In any case where a tax is specifically imposed upon a certain trade, occupation, business or profession by this Chapter and which trade, occupation, business or profession would be liable under some general provision of the ordinances of this City, if the specific provision herein were absent, then, and in that case, the tax shall be that specifically imposed.

(Ord. 1063, Sec. 3; C.O. No. 28; Ord. 2326)

5-104. Producers, Growers Exempt from Chapter Provision.

(a) Producers and Growers — No producer or grower, or his or her agents or employees, selling farm or garden products, or fruits grown within this State, in this City, shall be required to pay any license or occupation tax imposed by this Chapter and they are hereby exempted from the payment of any such license tax or the securing of any license.

(b) Special Events — City-sponsored or not-for-profit organization sponsored special events consisting of five (5) consecutive days or less are hereby exempted from the payment of any such license tax or the securing of any license.

(Ord. 1892, Sec. 1; C.O. No. 28; Ord. 2326)

5-105. Construction of Provisions.

This ordinance shall not be construed to amend, modify or repeal any of the rules and regulations of the businesses, trades, occupations or professions or rendering or furnishing any services provided for in any other ordinance of this City.

(Ord. 1063, Sec. 5; C.O. No. 28)

5-106. Term of License.

All licenses shall be issued for a term of 12 months from January 1st of each year, except those issued for shorter terms by the terms and conditions of the City code.

(Ord. 1063, Sec. 6; C.O. No. 28; Ord. 2326)

5-107. Payment of License Fee.

Every person making application for or receiving an annual license for a business carried on previously shall pay the full amount of the license fee set out in Section 5-102. After January 31 of each year the annual license fee for a business not previously carried on or licensed in the City shall be prorated by calendar quarter but in no event shall the prorated fee be less than \$25. A \$20 per month with a maximum of \$80 shall be charged to businesses located within the City limits for failure to secure or renew their occupational license by March 31 for each annual year.

(Ord. 2130; C.O. No. 2; C.O. No. 28; Ord. 2326)

5-108. Application for License.

Any person desiring a license required by the provisions of this Chapter shall make application therefore to the City Clerk upon forms provided by the City for such purpose.

(Ord. 1078, Sec. 2; C.O. No. 28; Ord. 2326)

5-109. Issuance of License.

All licenses required by this Chapter shall be issued by the City Clerk upon payment of the proper tax levied therefore. Where other provisions of this code or ordinances of this City require the posting of bonds, carrying of insurance policies or other similar measures for the protection of the City or residents thereof, no license shall be issued until satisfactory proof has been presented to the City Clerk (or proper City officer designated in such provisions) showing that such requirements have been met and complied with in full.

(C.O. No. 6; Ord. 1063, Sec. 9; C.O. No. 28; Ord. 2326)

5-110. License Not Transferable or Assignable.

No license issued under the provisions of this Chapter shall be transferable or assignable.

(Ord. 1063, Sec. 10; C.O. No. 28; Ord. 2326)

5-111. Only One License Required.

Any person who shall engage in or carry on more than one (1) kind of business at the same place at the same time, shall be required to pay but one (1) license tax for all businesses in which he or she is engaged; provided, that the license tax paid shall be for the business or occupation upon which the highest tax is levied.

(C.O. No. 1063, Sec. 11, ; C.O. No. 28; Ord. 2326)

5-112. Display of License.

All persons doing business in a permanent location shall have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place are hereby required to carry their licenses with them, and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the City.

(Ord. 1063, Sec. 12; C.O. No. 28; Ord. 2326)

5-113. Expiration of License.

Unless otherwise specifically provided all licenses issued under this Chapter shall expire on the last day of December next following the date of issuance thereof.

(Ord. 1063, Sec. 13, C.O. 28 & Ord. 2326)

5-114. Violation of Laws, Ordinances Prohibited.

Nothing in this Chapter shall be construed as to permit any licensee licensed under the provisions of this Chapter to violate any law of the United States, the State of Kansas, or any ordinances of the City of Bonner Springs, Kansas.

(Ord. 1063, Sec. 14; C.O. No. 28; Ord. 2326)

5-115. Clerk to Sign License; Seal to be Affixed.

All licenses issued under this Chapter shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

(Ord. 1063, Sec. 16; C.O. No. 28; Ord. 2326)

5-116. Failure to Obtain License, Pay Tax.

Any person, firm or corporation which shall conduct, pursue, carry on or operate within the limits of the City, any business, trade, occupation or profession or rendering or furnishing any service, for which a license or the payment of a license tax is required by this Chapter, or shall assist directly or indirectly in so doing in any manner or to any extent, either as owner or proprietor, or as an officer of any corporation, or as manager, superintendent, agent, servant, or employee of any person, firm or corporation after a license tax should have been paid or a license obtained to conduct, pursue, carry on, or operate such business, trade, occupation or profession or rendering or furnishing any service, shall be deemed to do so unlawfully, and for such violation of this code shall be punished as provided in Section 1-116.

(Ord. 1063, Sec. 17; Code 1989; C.O. No. 28; Ord. 2326)

5-117. Penalty.

Any person, firm, partnership, association or corporation convicted of violating any of the provisions of this Chapter shall be deemed guilty of a public offense and subject to the general penalty provisions of 1-116.

5-118. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

(Ord. 2132)

5-119. Notices to Appear.

Pursuant to the authority of Charter Ordinance No. 29, the City Clerk, Deputy City Clerk or any other City Employee as designated in writing by the City Manager shall have the authority to issue notices to appear for violations of this Chapter.

(Ord. 2353; C.O. No. 29)

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS**5-201. Definitions.**

For the purpose of this Article, the following words shall be considered to have the following meanings:

(a) Soliciting shall mean and include any one or more of the following activities:

- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or
- (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor shall mean any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler shall mean any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering Articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this Article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a wagon or stand temporarily located on the public streets or sidewalks of this City.

(Code 1970, 20-1; Code 1989)

5-202. License Required.

It shall be unlawful for any person to engage in the business of a peddler, solicitor or canvasser, as defined in the preceding Sections of this Article, within the corporate limits of the City without then having an unrevoked and unexpired license therefore in his or her possession and issued by the City Clerk.

(Code 1970, 20-14; Code 1989)

5-203. Same; Application Required.

Before the City Clerk may issue any license required by this Article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the City Clerk which shall give the following information:

- (a) Name and description of applicant;
- (b) Permanent home address and full local address of applicant;
- (c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;
- (d) Identification of vehicle used by applicant including license therefore used by applicant in conducting his or her business;
- (e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;
- (f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;
- (g) The length of time which business is proposed to be carried on;
- (h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (i) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the Chief of Police and filed with the application;
- (j) The names of at least two (2) reliable owners of property in Wyandotte County, Johnson County or Leavenworth County who will certify to the applicant's good character and business responsibility; or in lieu of the names of references, submit available evidence as to the good character and business responsibility of the applicant as will enable the City officers to evaluate properly his or her character and responsibility;

(k) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any City ordinance giving the nature of the offenses, the punishment assessed therefore, if any, and the City and State where conviction occurred.

(Code 1970, 20-16; Code 1989)

5-204. Same; Investigation Fee.

At the time of filing the application, a fee of \$25 shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the foregoing application.

(Code 1989)

5-205. Same; Investigation and Issuance.

(a) Upon receipt of the above application, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the fact stated therein to be made within not to exceed five (5) days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the Chief of Police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the City Clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the Chief of Police shall endorse his or her findings and approval on the application and return the same to the City Clerk who shall immediately upon payment of the license fee prescribed hereafter, issue a license to the applicant to engage in the business described in the application. Such license shall authorize the licensee to conduct business within the City limits for a six-month period of time and shall be in such form as required by ordinance and shall show the name, address and photograph and fingerprints of the licensee and the kind of goods to be sold or services rendered and the amount of fee paid, the date of issuance and the length of time the license shall be operative.

(Code 1989)

5-206. Same; Fee; Exemptions.

(a) The fee for the license required pursuant to Section 5-102 shall be established by the City Council per each day, or portion thereof, that the licensee shall solicit within the City limits. Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license between the hours of 8:00 a.m. and 8:00 p.m. No solicitation or sales shall be conducted by any person during any other hours on said date except upon invitation.

Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license between the hours of 8:00 a.m. and 8:00 p.m. No solicitation or sales shall be conducted by any person during any other hours on said date except upon invitation.

(Code 1970, 20-1, 17; Code 1989, Ord. 2293, Sec. 1)

5-207. Bond Required for Certain Applicants.

Any canvasser or solicitor or peddler, not a resident of the City, shall, before a license shall be issued, file with the City Clerk a surety bond running to the City in the amount of \$5,000 with surety acceptable to and approved by the City Manager, conditioned that the applicant shall comply with all the provisions of the laws of the City and of the State of Kansas regulating and concerning the business of the applicant and guaranteeing to any citizen of the City that all money paid as a down payment will be accounted for and

applied according to the representations of the application and further guaranteeing to any citizen of the City doing business with the applicant, that the property purchased will be delivered according to the representations of the applicant. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person.

(Code 1989)

5-208. Regulations.

(a) It shall be unlawful for any peddler, solicitor or canvasser to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) Peddlers, solicitors or canvassers are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same.

(c) Any peddler or solicitor who enters upon premises owned or leased by another and willfully refuses to leave the premises after having been notified by the owner or possessor of the premises, or his or her agent, to leave the same, shall be deemed to be in violation of this code.

(d) Any peddler or solicitor who enters upon premises owned, leased or occupied by another, whose property is signed to indicate no solicitors and/or no peddlers or who willfully refuses to leave the premises after having been notified by the owner or occupier of the premises, or his or her agent, to leave the same, shall be in violation of this code.

(Code 1970, 20-3,22; Ord. 1502, Sec. 1; Code 1989)

5-209. Use of Streets and Sidewalks.

No peddler or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the City or any congested area where his or her operations might impede or inconvenience the public.

(Code 1989)

5-210. Suspension of License: Grounds.

Licenses issued under the provisions of this Article may be suspended by the City Clerk for any of the following causes:

(a) Fraud, misrepresentation or false statement made in the course of carrying on the business provided for the license;

(b) Any violation of the provisions of this Article;

(c) Conviction of any crime or misdemeanor involving moral turpitude;

(d) Conducting the business of the licensee in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. Any person aggrieved by the suspension of his or her license by the City Clerk may appeal to the Governing Body within five (5) days after notice of such suspension.

(Code 1970, 20-23, Code 1989)

5-211. Exemptions from Payment of Fee.

The fee required by this Article shall not be required to be paid by the following:

(a) Ordinary commercial travelers who sell or exhibit for sale, goods, wares or merchandise to persons engaged in the business of buying, selling and dealing in the same.

(b) Local vendors of farm produce, poultry, stock or agricultural products in their natural state, which products shall have been grown or produced by such vendors.

(c) Sale of goods, wares and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some locally approved charitable, religious or philanthropic purpose.

(e) Any person residing in the City for one (1) year immediately preceding application for a license under this Article. Provided, however, that all other provisions of this Article shall be and remain applicable to those persons set forth in (a), (b) and (c) of this Subsection.

(Ord. 1502, Sec. 1; Code 1989)

ARTICLE 3. ADVERTISING**5-301. Posting Bills Restricted.**

It shall be unlawful for any person to put up any handbills, advertisements, posters, show bills, or other signs on any building, pole or property not his or her own, without permission from the owner thereof.

(Code 1970, 3-1)

5-302. Distribution of Handbills; Exclusion from Article Provisions, Newspaper Defined.

This Article shall not be deemed to prohibit the distribution of United States Mail, nor the delivery of any newspaper to any subscriber thereof, or to any person who has requested the delivery of the same, nor to the sale of separate copies thereof.

(Code 1970, 3-29)

5-303. Same; Distribution Restricted.

The practice of throwing, casting, distributing, scattering and depositing handbills, dodgers, circulars, booklets, posters, or any other printed matter or literature, or any advertising sample or device except that the same may be personally delivered to those who are willing to accept the same.

(Code 1970, 3-31)

5-304. Same; Distribution on or in Automobiles Restricted.

It shall be unlawful for any person to throw, distribute or place in or upon any automobile, or other vehicle, in the City without first having obtained permission of the owner, or person in possession thereof, any handbill, dodger, circular, newspaper, paper, booklet, poster, printed matter, advertising literature, advertising samples and devices.

(Code 1970, 3-32)

ARTICLE 4. SCRAP METAL DEALERS**5-401. Scrap Metal Dealers; Registration Required.**

It shall be unlawful for any business to purchase any regulated scrap metal without having first registered each place of business with the City as herein provided.

(Code 2014)

5-402. Same; Definitions.

The words and phrases listed below when used in this Article shall have the following meanings:

(a) Scrap metal dealer means any person that operates a business out of a fixed location, and that is also either:

- (1) Engaged in the business of buying and dealing in regulated scrap metal;
- (2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
- (3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.

(b) Regulated scrap metal yard means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.

(c) Regulated scrap metal shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2010 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.

(d) Bales of regulated metal means regulated scrap metal properly processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(e) Ferrous metal means a metal that contains iron or steel.

(f) Junk vehicle means a vehicle not requiring a title as provided in Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(g) Nonferrous metal means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) Tin means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) Vehicle part means the front clip consisting of the two (2) front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

(Code 2014)

5-403. Same; Registration; Application; Fees; Penalty.

(a) Application for registration for a scrap metal dealer shall be verified and made upon a form furnished by the City and approved by the Attorney General and shall contain:

- (1) The name and residence of the applicant;
- (2) The length of time that the applicant has resided within the State of Kansas and a list of all residences outside the State of Kansas during the previous ten (10) years;
- (3) The particular place of business for which a registration is desired;
- (4) The name of the owner of the premises upon which the place of business is located; and,
- (5) The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2011 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2011 Supp. 21-5802, and amendments thereto, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2011 Supp. 21-5803, and amendments thereto, or any other crime involving possession of stolen property.
- (6) In addition to the information required in Subsection (a)(5), above, the applicant shall also disclose any prior convictions within 10 years immediately preceding the date of making the application for registration for any federal or local crime or offense similar to those stated in Subsection (a)(5), to include, but not be limited to, Sections 6.1, theft, 6.3, theft of lost or mislaid property, and 6.5, criminal deprivation of property, and amendments thereto, of the Uniform Public Offense Code for Kansas Cities.

(b) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee as approved by the City Council (State law requires not less than \$100 nor more than \$400).

(c) The City Clerk shall provide the Chief of Police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(Code 2014)

5-404. Same; Issuance of Registration; Renewal; Renewal Fees.

(a) Upon receipt of the application for registration, the application fee and verifying the information contained in the registration application that the applicant is qualified, the City Clerk shall forward the application to the Governing Body, or its designee. The Governing Body, or its designee, shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in the City and qualified to file such registration, to purchase regulated scrap metals.

(b) Registrations issued hereunder, unless revoked as herein provided, shall be effective for a period of 10 years.

(c) If an original registration is accepted, the Governing Body, or its designee, shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal shall be as approved by the City Council.

(d) No registration or renewal issued hereunder shall be transferable.

(Code 2014)

5-405. Same; Penalty.

Violation of Section 5-401 is a Class A violation and punishable by a fine of not more than \$2,500 or imprisonment in jail for not more than 12 months or by both such fine and imprisonment.

(Code 2014)

5-406. Same; Exception.

This Article shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

(Code 2014)

5-407. Same; Issuance; Disqualification.

(a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the Governing Body, or its designee, shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

- (1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this Section and such crime was committed during the time that such parents or legal guardians held a registration under this Article.
- (2) A person who, within five (5) years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of Article 37 of Chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2011 Supp. 21-5801 through 21-5839 and Subsection (a)(6) of K.S.A. 2011 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2011 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 2011 Supp. 21-5904, interference with judicial process, K.S.A. 2011 Supp. 21-5905, or any crime involving moral turpitude.
- (3) A person who, within the five (5) years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of Section 5-401, and amendments thereto, K.S.A. 50-6,109 et seq., and

amendments thereto, the laws of another State comparable to such provisions or laws of any County or City regulating the sale or purchase of regulated scrap metal three or more times.

- (4) A person who within the three (3) years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.
- (5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three (3) years.
- (6) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.
- (7) A corporation, if any manager, 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 hereunder for any reason.
- (8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.
- (9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this Section and such crime was committed during the time that the spouse held a registration under this Article.

(Code 2014)

5-408. Same; Suspension or Revocation of Registration.

(a) The Governing Body, upon five (5) days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to thirty (30) days for any one of the following reasons:

- (1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or any similar ordinance or code provisions adopted by the City;
- (2) The employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or the laws of another State comparable to such provisions, or any City ordinance, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or
- (3) Permitting any criminal activity under the Kansas criminal code, or similar ordinance adopted by the City in or upon the registrant's place of business.

(b) The Governing Body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The Governing Body, upon five (5) days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

- (1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;
- (2) The registrant has become ineligible to obtain a registration under this Article;
- (3) The nonpayment of any registration fees after receiving written notice that such registration fees are more than thirty (30) days past due; or
- (4) Within 20 days after the order of the Governing Body denying, revoking or suspending any registration, the registrant may appeal to the District Court and the District Court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the District Court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this Article.

(d) Any action brought under Subsections (a), (b) or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

(Code 2014)

ARTICLE 5. PUBLIC AMUSEMENTS**5-501. Amusement or Entertainment Enterprise.**

(a) It shall be unlawful to conduct or operate on private property within the City any carnival or other amusement entertainment enterprise for which admission is charged or fees collected without first securing a license for the conduct of such carnival or amusement or entertainment enterprise from the City.

(b) It shall be unlawful to conduct a party on vacant private property at which over fifty (50) persons attend or are expected to attend without first securing a license for the conduct of such party from the City.

(c) It shall be unlawful to conduct or operate on public property within the City any carnival or other amusement entertainment enterprise for which admission is charged or fees collected without first securing a license for the conduct of such carnival or amusement or entertainment enterprise from the City.

(Ord. 1574, Sec. 1; Code 2014)

5-502. Definitions.

(a) The term amusement or entertainment enterprise as used in this Section shall be held to mean and include band concerts, carnivals or other similar amusement or entertainment enterprises which are open to the public and for which an admission fee is charged or a donation required or requested.

(b) Carnival as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conducting or games of skill, food dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of State laws and/or City ordinances.

(c) Party as used in this Section shall mean and include events including overnight camping, or at which musical entertainment, theatrical performances, band concerts, circuses, carnivals or other forms of entertainment is provided or used, regardless of whether open to the general public or open only to invited guests and for which no admission is charged or donation required or requested.

(d) Vacant Private Property as used herein shall mean and include property on which no person resides or conducts business.

(e) Person as used herein shall mean and include, natural persons, firms, corporations, non-corporate associations, including, but not limited to, partnerships and joint ventures.

(f) Owner as used herein shall mean and include the legal title holder of the property on which the event shall occur, the owner of an equitable interest in the property (including, but not limited to, a purchaser under a written contract for deed, option contract or similar instrument).

(g) Event as used herein shall mean and include, a carnival, or an amusement or entertainment enterprise and a party or any of them.

(Ord. 1574, Sec. 2, Ord. 2392)

5-503. Licensure.

(a) No license shall be issued by the City for a carnival or amusement or entertainment enterprise except to a voluntary veteran's or fraternal organization affiliated with a parent organization which is national in scope or a local not for profit corporation. Such organization, to receive such license, must be organized

by the election of a president and a secretary. The application for such license must be submitted thirty (30) days before the event and signed by such president and secretary, shall state the character of the enterprise, the name of the enterprise which is sponsored by such organization, the place where and the time when such amusement enterprise is to be conducted, and such other information required by the City. The application for such permit shall be accompanied by a fee, as approved by the City Council, which fee shall be non-refundable.

(b) No license shall be issued by the City for a party except with the consent of the owner of the property upon which the party is to be held. The application for such license must be signed by person or authorized representative of the organization sponsoring the party and the owner. Written proof of land ownership shall be submitted with the application. Such application shall state the nature of the party, the type and nature of the activities to be conducted, the place where and time when such a party is to be conducted and such other information as required by the City. The application for parties shall be accompanied by a fee of \$10 which fee shall be non-refundable.

(c) All applicants are required to appear before the City Council at the regular or special meeting at which such permit application is to be considered.

(Ord. 1574, Sec. 3; Ord. 1841, Sec. 1)

5-504. Inspection of Rides.

No rides shall be placed in operation for use at any event until the same have been inspected for mechanical, structural, electrical and other hazards by the City building inspector and such other officers or employees of the City having jurisdiction. Adequate safeguards shall be placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches, and other possible or potential hazards. The operator of the event shall be responsible for paying the costs of each inspection required by this Section.

(Ord. 1574, Sec. 4)

5-505. Insurance.

No license shall be issued for conducting a carnival or amusement or entertainment enterprise and no license shall be issued for conducting a party including camping overnight which the general public may attend, until the applicant therefore has placed on file with the City Clerk a certificate or certificates of insurance indicating that there is in effect a public liability insurance policy covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or amusement or entertainment enterprise. Such insurance shall be in the minimum amount of \$25,000 for each person and a \$50,000 for each accident. Such insurance shall be with companies approved and authorized to do business in Kansas. All such policies shall be approved in advance of the event by the City Attorney.

(Ord. 1574, Se. 5)

5-506. Evidence.

The applicant shall submit such evidence as is required by this Article and the City to the City Clerk with the application. Upon receipt of such information, the City Clerk shall obtain the recommendations of the Police Department, the Fire Department and other affected City departments of the City, and the Kansas Department of Transportation and the City, County Health Department prior to submission of such application and departmental recommendations to the Governing Body for consideration.

(Ord. 1574, Sec. 6)

5-507. Police Protection.

For the purpose of preserving and maintaining order there shall be, on the premises at all times during the hours of operation of such event at least two (2) off- duty representatives of the Police Department of the City or other law enforcement agency in Wyandotte, Johnson or Leavenworth counties for each two hundred (200) persons or fraction thereof anticipated to be in attendance at any one time. Such representative shall be selected by the Police Department, and paid by the operator of the event. The Chief of Police and City Manager may require additional police or Law Enforcement Officers to be on duty depending upon the size, nature and purpose of the event and the past history or record of the group or association making application and the group or association making use of the proposed permit.

(Ord. 1574, Sec. 7; Code 2014)

5-508. Closure; When.

If conditions occur at the event, which, in the judgment of the City Manager or Chief of Police amount to a disturbance of the peace, a riot, or which are likely to become dangerous or harmful to persons or property at or immediately surrounding the location of the event, the City Manager or Chief of Police, or any one of them shall have the power to close the event temporarily or otherwise, until, in the judgment of such officer, such conditions abate.

(Ord. 1574, Sec. 8)

5-509. Order.

The property owner, operator and sponsor of the event shall each be wholly responsible for maintaining order, and for keeping the site clean, free of trash, papers and other debris. Trash containers in adequate number shall be placed in convenient locations for the use of the public.

(Ord. 1574, Sec. 9)

5-510. Violations.

Any persons, firm, or corporation violating any of the provisions of this Article shall be guilty of a code violation. Each day during or on which a violation occurs or continues shall be a separate offense.

(Ord. 1574, Sec. 10)

5-511. Deposit.

The owner of the property, operator or sponsor of a carnival or amusement, entertainment enterprise or party shall deposit with the City Treasurer a sum of money to be designated by the City Manager of the City. Such cash deposit shall be conditioned that the operator or sponsor, upon vacating the site where the carnival or amusement or entertainment enterprise was located, shall remove the trash, rubbish, debris and any other matter or materials from the site and/or fill any deep depressions or holes caused by heavy equipment or vehicles used at the site, and/or repair any damage to the curb, sidewalk, street or any other property of the City caused by any of the operations of the event.

(Ord. 1574, Sec. 11)

5-512. Sanitary Facilities.

There shall be provided at all events in the City at least two (2) sanitary toilet facilities for each one hundred (100) persons or fraction thereof expected to attend such an event, which facilities shall be first approved by the City and of a type approved by the City or the City-County Health Department; provided that the City or City-County Health Department or other health officials appointed by the City Manager shall

make an investigation to determine whether the sanitary and operating condition and number of all of such facilities to be used by the public and/or employees shall be sufficient in number and are satisfactory and should be approved shall be made immediately prior to the installation of such facilities. The owner, operator or sponsor shall comply with all rules, regulations, ordinances and laws of the State of Kansas and its various agencies, the City and the City-County Health Department.

(Ord. 1574, Sec. 12)

5-513. Storage on Public Property.

No carnival or amusement or enterprise shall store any trucks or other vehicles on any of the public grounds owned by the City without the written permission of the City Manager.

(Ord. 1574, Sec. 13)

5-514. Parking.

There shall be provided at least one off street parking space for each two (2) persons anticipated to be in attendance at such event at any one time.

(Ord. 1574, Sec. 14)

5-515. Use of Public Property Prohibited.

It shall be unlawful for any persons to conduct, hold, carry on or operate any street fair, carnival, party or similar amusement or entertainment or enterprise upon or any public street, avenue, alley, boulevard or sidewalk.

(Ord. 1574, Sec. 15)

5-516. Hours of Operation.

All events including parties shall close and cease operations at or before 12:00 midnight.

(Ord. 1574, Sec. 16)

ARTICLE 5A. AMUSEMENT ADMISSIONS TAX**5-5a01. Purpose and Authority.**

The City of Bonner Springs, Kansas, by virtue of the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-194, insofar as that statute prohibits the City of Bonner Springs, Kansas, from imposing any excise tax, or tax in the nature of an excise. The Amusement Attendance Tax levied by this ordinance is for the purpose of raising general revenues for the City. The City's authority to levy this tax is derived from Article 12, Section 5(b) & (c) of the Kansas constitution.

(C.O. No. 19A, Sec. 1)

5-5a02. Definitions.

For the purpose of this Article, the following words shall have the meanings respectively ascribed to them:

(a) Amusement means any theatrical, dramatic, musical, or other types of concerts, or spectacular performance or show, or motion picture show, or similar exhibition for public entertainment, within the City. Amusement shall not include any event or program sponsored by any public or private school, any religious or church organization, the Wyandotte County Museum, the Agricultural Hall of Fame, any event sponsored by a not-for-profit civic group or any event sponsored by the City of Bonner Springs.

(b) Person means any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any other group of individuals acting as a unit, whether mutual cooperative, fraternal, or otherwise. Whenever the term person is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof; and as applied to corporations, the officers thereof.

(C.O. No. 19A, Sec. 2)

5-5a03. Exemptions.

Reserved.

5-5a04. Tax Imposed.

(a) A tax is hereby levied and imposed upon all amusements within the City at the rate of \$.25 per ticket for admission of each person entering the premises of a place of amusement for the purpose of witnessing, viewing, or participating in the amusement. The tax herein levied shall be in addition to any other taxes. Such tax rate shall be in effect until January 1, 2006, at which time the rate shall automatically be adjusted to \$.30 per ticket. The tax rate shall thereafter automatically adjust by the addition of \$.05 per ticket on each 5th anniversary thereafter.

(b) The ultimate incidence of and liability for payment of said tax shall be borne by the ticket user or purchaser.

(c) Any amusement subject to this tax shall be entitled to be exempt from said tax on the following tickets:

- (1) All complimentary tickets, defined as those tickets given away by the amusement for which no compensation is received by the amusement.

- (2) Exempt tickets shall also include any ticket sold at a price of less than \$10, and any group sales, advance sales, minor child or senior citizen (being a person over 65 years of age) ticket allowing such person admission to the amusement at a discounted price (less than a full price adult admission ticket), said ticket price not exceeding \$13. The \$10 and \$13 maximum ticket prices set forth herein shall automatically increase at the rate of \$.50 annually, commencing January 1, 2002.

(d) Season tickets costing less than \$65 per season shall be deemed subject to one admission tax per season. Season tickets costing more than \$65 per season, shall be subject to an amusement tax for each event, concert or program to which the ticket purchaser is entitled to admission and actually attends.

(C.O. No. 19A, Sec. 4)

5-5a05. Payment and Collection of Tax.

The owner, manager, licensee, or operator of each amusement shall bear, jointly and severally, the duty to collect the tax from each ticket purchaser or user. Every person required to collect the tax levied by this ordinance shall secure said tax from the ticket user or purchaser at the time of collection of the price or charge of the ticket of admission. Whenever suitable, the amount of the tax shall be shown separately on each ticket of admission or the ticket shall indicate that the purchase price includes local taxes; provided, however, in no event shall tickets of admission printed prior to the effective date of this ordinance be required to separately show the tax hereby imposed. The tax shall be paid to the City Clerk under procedures prescribed by the City Clerk and as otherwise provided by this Article.

(C.O. No. 19A, Sec. 5)

5-5a06. Administration and Enforcement.

The City Clerk or his/her designated agent is designated as the administration and enforcement officer of the tax hereby imposed on behalf of the City. It shall be the responsibility and duty of the City Clerk or his/her designated agent to collect all amounts due the City from the owners, managers, licensees, and operators of amusement in the City. A sworn monthly amusement admission tax return, on a calendar month basis, shall be filed by each owner, manager, licensee, or operator of each amusement in the City with the City Clerk or his/her designated agent regardless of whether there is any tax due for the month covered by the return, on forms prescribed by the City Clerk, showing the number of admission tickets sold and issued, if any. Said returns are to be filed by the last day of the month following the month covered by said return. The tax herein imposed due and owing shall accompany the return and shall likewise be due as of the last day of the month following the month covering the return. The City Clerk or his/her designated agent, may enter the premises of any amusement for the purposes of inspection and examination of its books and records for the proper administration of this ordinance, and for the enforcement of the collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder, or interfere with the City Clerk or his/her designated agent in the discharge of duties thereunder. It shall be the duty of every owner, manager, licensee, or operator of any amusement to keep accurate and complete books and records, containing all information necessary for the collection of the tax herein imposed, to which the City Clerk or his/her designated agent shall at all times have full access, which records shall show: (a) the number of tickets of admission issued during any previous 24 hour period, and (b) the actual amusement attendance tax receipts collected for the date in question.

(C.O. No. 19A, Sec. 6)

5-5a07. Suit for Collection; Revocation of License.

Whenever any person shall fail to pay any taxes herein provided, or when any owner, manager, licensee, or operator of an amusement in the City shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the City Attorney shall, upon request of the City, bring or

cause to be brought an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction. If the City Council, after a hearing held by them, shall find that any amusement owner, manager, licensee, or operator has willfully evaded the responsibility to collect the tax imposed by this ordinance, they may suspend or revoke all City licenses, including but not limited to any liquor license issued to and held by such person. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice is given of the time and place thereof, addressed to said person at the last known place of business. Any suspension or revocation resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due.

(C.O. No. 19A, Sec. 7)

5-5a08. Interest and Penalties.

In the event of failure by any amusement owner, manager, licensee, or operator to collect and pay to the City Clerk the tax required thereunder within 10 days after the same shall be due, a penalty of 10 percent of the tax due shall be assessed. In addition, interest shall accumulate and be due upon said tax and penalty amount at the rate of one (1) percent per month commencing as of the first day of the month following the month for which the tax was to have been collected until the tax, penalty and interest are paid by any amusement owner, manager, licensee, or operator who failed to collect and remit the tax imposed by this ordinance on a timely basis.

(C.O. No. 19A, Sec. 8)

5-5a09. Disposition of Proceeds of Tax.

All proceeds resulting from the imposition of the tax, interest and penalties, under this ordinance shall be paid into the treasury of the City and shall be credited to and deposited in the City general fund.

(C.O. No. 19A, Sec. 9)

5-5a10. Penalty for Violation.

In addition, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or obstructing the enforcement of this ordinance, upon conviction thereof, shall be, subject to a fine of not less than \$50 nor more than \$500 for the first offense, and not less than \$100 nor more than \$1,000 for the second and each subsequent offense. Each day any violation of any provision of this ordinance shall continue to exist shall constitute a separate offense.

(C.O. No. 19A, Sec. 10)

5-5a11. Validity.

If any provision of this Article, or the application thereof to any person or circumstance, is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

(C.O. No. 19A, Sec. 11)

ARTICLE 6. PAWNBROKERS

5-601. Definition.

For the purposes of this Article, the word pawnbroker shall mean any person who loans money on deposit or pledge of personal property or valuable thing, other than intangible personal property or a person that deals in the purchase of personal property on condition of selling the same back again at a stipulated price; provided, that the word "pawnbroker" shall not include any person operating under the supervision of the State bank commissioner or the consumer credit commission of this state.

(Code 1970, 19-1)

5-602. Record of Transactions.

Every person who shall engage in, or in any way aid or assist in carrying on, the business of a pawnbroker in this City shall keep a book in which shall be written legibly in ink, at the time of the purchase, pawn, taking or receiving of the goods, Articles or thing, an accurate account and description, in the English language, of the goods, Articles or thing purchases, pawned, taken or received, the amount of money paid therefore at the time of purchasing, taking or receiving the same, the name and residence of the person selling, pawning or delivering such goods, Articles or thing, and a description of the person as near as may be from whom the same was purchased, pawned, taken or received.

(Code 1970, 19-2)

5-603. Specific Information for Watches, Jewelry; Etc.

When any watch is purchased, pawned, taken or received, the person so purchasing, taking or receiving such watch shall also write in the book of records of transactions the name of the maker of such watch, and its number and any monogram, name, initials or other marks thereon, and when jewelry, or gold or silver Articles, or gold or silver plated Articles, of any kind, are purchased, taken or received, such person shall not in such book all letters or marks described, engraved or cut thereon.

(Code 1970, 19-3)

5-604. When Records Not Required.

No pawnbroker shall be required to keep or furnish any record or description of secondhand furniture, purchased absolutely by such pawnbroker or of goods or merchandise purchased from a manufacturer or wholesale dealer who has an established place of business.

(Code 1970, 19-4)

5-605. Record Open to Inspection.

The record book provided for in Section 5-602 shall, at all times, be open to the inspection of the Chief of Police or to any other person authorized by him or her for that purpose.

(Code 1970, 19-5)

5-606. Items Subject to Inspection.

Any and all property pawned, pledged, purchased or received by any pawnbroker shall at all times may be subject to the inspection of the Chief of Police or any person authorized by him or her for that purpose.

(Code 1970, 19-6)

5-607. Transactions with Certain Persons.

No pawnbroker shall purchase or receive any goods, Articles or thing of value from any person under the age of 18 years, from any person who is at the time intoxicated, from any person who is a habitual drunkard or, knowingly, from any servant or apprentice, without first ascertaining that such Article or thing is the property of the person offering to pledge the same.

(Code 1970, 19-7)

5-608. Lost or Stolen Goods.

It shall be the duty of every pawnbroker in the City, upon receiving information or learning that any goods, Articles or thing left with him or her has been lost or stolen, to immediately notify the Chief of Police of the fact, giving the name of the person from whom he or she received the same, the time when it was received, and of any other facts connected therewith that may tend to the discovery or conviction of the thief.

(Code 1970, 19-8)

5-609. Concealment.

It shall be unlawful for any pawnbroker to conceal from sight any Article or property purchased or received by him or her.

(Code 1970, 19-9)

5-610. Resale, Dismantling.

No pawnbroker shall, for a period of three (3) days from the time of purchase of any Article or property by him or her, resell, dismantle, overhaul, dispose of, change or alter the same.

(Code 1970, 19-10)

ARTICLE 7. SECURITY OFFICERS

5-701. Definition.

The words “security officer” shall mean any person, or employer of such person who, for pay, polices, watches or guards the premises of others at intervals or during certain periods or who regulates traffic on the premises of others at intervals or during certain periods, or who is engaged in an armored car service, regardless of whether such person is engaged in business for himself or herself or is an employee of another merchant or private police officer or merchant police association, organization or corporation; provided, that this Article shall not apply to a person employed for such purposes by railroads or governmental agencies nor to a person employed solely as a watchman by a single employer nor to any person who is a member of good standing of the Police Department of the City.

(Code 1970, 22-21; K.S.A. 12-1679)

5-702. Compliance Required.

It shall be unlawful for any person to engage in the occupation of security officer without complying with the provisions of this Article.

(Code 1970, 22-22; K.S.A. 12-1679)

5-703. Uniforms.

Security officers shall be required to wear a uniform which shall not be similar in color, design or style to the uniforms worn by the police officers of the City.

(Code 1970, 22-23)

5-704. Impersonating City Officers.

No licensee under this Article shall represent himself or herself to be or imply or intentionally act so as to give the impression that he or she is a member of the Police Department of the City or that he or she represents the City as a Law Enforcement Officer or acts in any representative capacity whatever on behalf of the City.

(Code 1970, 22-24)

5-705. Report to Chief of Police.

It shall be the duty of all persons licensed under this Article to report and deliver to the Chief of Police daily all arrest made by their employees in writing.

(Code 1970, 22-25)

5-706. Limitation of Powers.

Nothing in this Article shall be construed as conferring or providing any additional powers of arrest to any person other than such powers as are granted to private persons under the laws of this State, nor shall the provisions of this Article be construed as authority or power to carry weapons contrary to existing provisions of this code or other ordinances of the City or statutes of the state. All persons licensed shall be authorized to carry firearms, openly displayed, while in uniform and in performance of the service for which they were hired and to and from such service.

(Code 1970, 22-25)

5-707. License; Required.

It shall be unlawful for any person to engage in business within the City as a security officer without having first secured a license so to do. Except as the same may conflict with the provisions of this Article, the provisions of Chapter 5 shall control the procedure relative to such license.

(Code 1970, 22-36; K.S.A. 12-1679)

5-708. Same; Application.

Any person desiring a license required by the provisions of this Article shall make application therefor to the City Clerk. Such application shall contain:

- (a) His or her name and age;
- (b) His or her residence address;
- (c) His or her business address, if any;
- (d) His or her previous occupation or employment for the last five (5) years immediately preceding such application;
- (e) His or her qualifications;
- (f) His or her experience;
- (g) The services he or she proposes to perform;
- (h) Whether or not he or she has been convicted of a crime, and if so, the crime, court rendering judgment, the case number, the date of conviction and a summary of the events surrounding the matter;
- (i) A description of the area, territory or district of the City he or she proposes to serve;
- (j) The rates he or she will charge for his or her services.

(Code 1970, 22-37; K.S.A. 12-1679)

5-709. Felons Not to Be Licensed.

No person who has been or who shall be convicted of a felony shall be permitted to receive or retain a license under this Article.

(Code 1970, 22-38)

5-710. Investigation of Applicant.

The City Clerk shall deliver one (1) copy of the application to the Chief of Police who shall within five (5) days secure the fingerprints of such applicant, make an investigation to determine whether or not the applicant has a police record and if so the nature of the record, the ability of the applicant to act as a police officer and the character of the applicant. He or she shall obtain all available information about the applicant from the office of the State bureau of investigation, the federal bureau of investigation and the files of local law enforcement authorities and shall forward such information to the City Clerk for presentation to the City Council. The applicant shall pay an investigation fee as established by City Council.

(Code 1970, 22-39; Code 2014)

5-711. Bond Required.

The applicant for a license under this Article shall file evidence that he or she is insured by a reliable insurance company, authorized to do business in the State for liability insurance in the amount of \$500,000 and \$1,000,000.

(Code 1970, 22-40; Code 2014)

5-712. Fee.

The applicant for a license required by this Article shall pay an annual license fee established by the City Council plus the investigation fee provided for in Section 5-710.

(Ord. 1841, Sec. 2, Ord. 2292, Sec. 1)

5-713. Approval, Issuance.

The City Clerk shall issue the license upon:

- (1) The City Manager's approval of the application;
- (2) Receipt of a certificate of insurance in compliance with Section 5-711;
- (3) Receipt of written certification from the Chief of Police that the necessary investigation was completed, no criminal record found and in compliance with K.S.A. 12-1679; and
- (4) Payment of the required license fee.

(Code 1970, 22-42, Ord. 2167)

5-714. Expiration.

Every license issued under the provisions of this Article shall expire on the 31st day of December.

(Code 1970, 22-43)

5-715. Revocation, Suspension.

(a) The City Manager may revoke any license granted hereunder when presented with evidence or credible information that (1) a licensee provided false information on the application, or (2) violated any requirement of this Article, any City ordinance, State or federal law or regulation. The licensee shall be given not less than three (3) days notice of any pending revocation.

(b) Licensee may appeal the City Manager's decision to revoke granted license by written notice to the Mayor and City Council stating the reason(s) for the appeal. Such appeal shall be heard at the next regularly scheduled City Council meeting, but in no event shall the appeal be heard earlier than ten (10) business days from the date of filing. The City Council shall consider and decide the appeal, which decision shall be final.

(Code 1970, 22-44, Ord. 2167)

ARTICLE 8. JUNK DEALERS**5-801. Record of Transaction.**

Every person who shall engage in, or in any way aid or assist in carrying on, the business of a junk dealer in this City shall keep a book in which shall be written legibly in ink, at the time of the purchase, taking or receiving of the goods, Articles or thing, an accurate account and description, in the English language, of the goods, Articles or things purchased, taken or received, the amount of money paid therefor at the time of purchasing, taking or receiving the same, the name and residence of the person selling or delivering such goods, Articles or thing, and a description of such person.

(Code 1970, 13-1)

5-802. When Records Not Required.

No junk dealer shall be required to keep or furnish any record of description of secondhand furniture purchased absolutely by such dealer or of goods or merchandise purchased from a manufacturer or wholesale dealer who has an established place of business.

(Code 1970, 13-2)

5-803. Record Open to Inspection.

The record book provided for in Section 5-801 shall, at all times, be open to the inspection of the City Manager and Chief of Police or to any person authorized by either for that purpose.

(Code 1970, 13-3)

5-804. Items Subject to Inspection.

Any and all property purchased, taken or received by any junk dealer shall be subject to the inspection of the City Manager or Chief of Police or any person authorized by either for that purpose at any time.

(Code 1970, 13-4)

5-805. Transactions with Certain Persons.

No junk dealer shall purchase or receive any goods, Article or thing of value from any person under the age of 18 years, from any person who is at the time intoxicated, from any person who is a habitual drunkard or, knowingly, from any servant or apprentice, without first ascertaining that such Article or thing is the property of the person offering to sell the same.

(Code 1970, 13-5)

5-806. Lost or Stolen Goods.

It shall be the duty of every junk dealer within the City, upon receiving information or learning that any goods, Article or thing left with him or her has been lost or stolen, to immediately notify the Chief of Police of the fact, giving the name of the person from whom he or she received the same, the time when it was received, and of any other facts connected therewith that may tend to the discovery or conviction of the thief.

(Code 1970, 13-6)

5-807. Application for License.

Any person desiring a license to engage in business as a junk dealer shall submit under oath and in writing to the Mayor and City Council an application for such license. Such application shall be accompanied by the complete plans and specifications for the proposed yard.

(Code 1970, 13-7)

ARTICLE 9. ARCADES**5-901. Definitions.**

As used in this Article the following words and phrases shall have the following meaning unless the context otherwise requires:

(a) Alcoholic Liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any beer or cereal malt beverage containing not more than 3.2 percent alcohol by weight.

(b) Arcade means a business which provides a place where five (5) or more coin-operated amusement devices such as, but not limited to, pinball machines, air hockey, foosball, electronic games and similar coin-operated amusement machines, apparatus, paraphernalia or devices are available for use by the public or any business that derives more than fifty percent (50%) of its gross receipts from persons using such coin-operated amusement devices.

(c) Amusement Device means any machine or device which is coin-operated or otherwise available for hire, which machine or device permits a person or operator to use the device as a game or contest of skill, whether or not registering a score. It shall include, but not be limited to such devices as electronic or mechanical game machines, pool tables, foosball tables, air hockey tables, pong games, mechanical rides for children, electronic video games, shooting gallery type games, pinball machines, skill ball, bowling machines, or any other mechanical or electronic games or operations similar thereto. This definition does not include merchandise vending machines or coin-operated phonographs, televisions or other devices which are not designed for manipulation by the person operating the device.

(d) Cereal Malt Beverage means any fermented but undistilled liquor brewed or made from malt or malt substitute, but does not include any liquor which is more than 3.2 percent alcohol by weight.

(e) Controlled Substance means any substance included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113 and Sections amendatory of the Sections.

(f) Operator means proprietor, lessee, manager or employee of any arcade or business where amusement devices are on display for public patronage and operated for a profit.

(g) Premises means the building or structure used for carrying on or conducting the business of an arcade and the parking spaces which are designated by the operator of an arcade to be counted as provided parking for the business under the City's zoning ordinances.

(Ord. 1426, Sec. 1)

5-902. Arcade License.

It shall be unlawful to establish, maintain or conduct any arcade in the City without first obtaining an arcade license for each premises in the City. No operator shall allow or permit the use of five (5) or more amusement devices unless an arcade license has been issued by the City.

(Ord. 1426, Sec. 2; Code 1989)

5-903. Application.

Every person desiring a license for an arcade shall file a written application with the City Clerk on forms approved by the City Clerk, together with an application fee as approved by the City Council. The application shall include the following information:

- (a) The name, age and residence of the applicant;
- (b) The applicant's places of residence for the five (5) year period immediately preceding the application;
- (c) The type of business and the particular place for which a license is desired;
- (d) Whether or not the applicant has ever been convicted of any felony or any crime involving moral turpitude or any offense involving the sale and/or distribution of alcoholic liquor, cereal malt beverages or any controlled substance;
- (e) In the case of a partnership, each active partner shall furnish all the information required of an individual applicant;
- (f) In the case of a corporation, the application shall be made by the agent of the corporation having the principal charge of the premises. The agent shall furnish all the information in respect to himself or herself as required of an individual applicant.
- (g) A diagram with dimensions of the premises on which the business will be conducted, showing the location of each amusement device and each exit from the premises. (Ord. 1426, Sec. 3; Code 1989)

5-904. Inspection of Premises.

Before any arcade license shall be issued, investigation of the applicant and inspection of the premises shall be made by the City building inspector, Fire Department, Police Department, and other City departments or agencies as may be deemed necessary to determine whether the applicant and the premises shall comply with applicable building, fire, health, safety and sanitation codes. Before the Fire Department approves the premises, it must be determined that the premises and the location of the amusement devices therein permit safe ingress and egress. (Ord. 1426, Sec. 4)

5-905. License Denial.

No license shall be issued:

- (a) Where the licensee, operator, managing agent or active partner of a partnership has been convicted of any felony or any crime involving moral turpitude or any offenses involving the sale and/or distribution of alcoholic liquor, cereal malt beverages or any controlled substance, except convictions which have been expunged pursuant to K.S.A. 12-4516 or 21-4619 and amendments thereto or pursuant to comparable proceedings in other jurisdictions.
- (b) Unless the premises comply with applicable City ordinances, including but not limited to building code, fire code, health, safety and sanitation codes.
- (c) Unless the premises provide for safe ingress and egress.
- (d) For any premises that have living quarters with direct entry to the premises of the arcade. (Ord. 1426, Sec. 5)

5-906. Granting of License.

The Governing Body upon receiving the application, if presented in due form, shall pass upon the same at its next regular meeting or any adjournment thereof. If satisfied that the application contains the qualifications herein prescribed and the premises conform to the requirements of this code, the Governing Body shall grant the license to the applicant for a term expiring on the 31st day of December of the current year. All licenses shall be in such form as the Governing Body may prescribe and shall contain the name, address, place of business, the number of amusement devices on the premises and the date of expiration of the license and shall be authenticated by the signature of the City Clerk. The license shall be issued to a specific person for a specific location. (Ord. 1426, Sec. 6)

5-907. No Reimbursement or Prorating of License Fees.

There shall be no refund in any case where the licensee begins operations after the beginning of the calendar year or ceases operations prior to the end of a calendar year or when the license is revoked for any reason. No license issued under this Article shall be transferable to another person.

(Ord. 1426, Sec. 7; Code 2014)

5-908. Business Regulations.

(a) Each operator or licensee shall, at all times, during business hours, open each and every portion of the licensed premises for inspection to City departments for the purpose of enforcing the provisions of this code.

(b) Each operator or licensee shall, at all times, display the license granted hereunder in a conspicuous place near the entrance to the licensed premises.

(c) The licensee or a manager or agent over 21 years of age shall be present on the premises at all times during the hours of operation of the licensed premises.

(d) No operator or licensee shall be under the age of 21 years.

(e) No private room or closed booth or enclosures shall be permitted.

(f) Arcades shall be closed between the hours of 11 p.m. and 6 a.m.

(g) The licensee shall, within 10 regular business days, give the City Clerk written notice of a change of manager by actual delivery or by registered or certified mail within 10 business days of the change. The licensee shall, within five (5) regular business days, provide the information concerning the new manager which is required in Section 5-903. (Ord. 1426, Sec. 8; Code 1989)

5-909. Prohibited Conduct.

The following conduct by a licensee, operator or employee of any licensed arcade is prohibited:

(a) Permit any illegal conduct.

(b) Permit intoxicated persons to remain upon the premises.

(c) Permit the possession or use of any alcoholic liquor or cereal malt beverage on the premises, nor shall the licensed premises be accessible in any way to any place where alcoholic liquor or cereal malt beverage is kept, sold, distributed or given away. This provision shall not apply while an alcoholic or cereal malt beverage license is in effect at the licensed premises.

- (d) Permit violation of sanitary and health regulations and ordinances of the City.
- (e) Permit the possession or use of any controlled substance on the premises.

(Ord. 1426, Sec. 9; Code 1989)

5-910. License Renewal; Transfer.

(a) Any arcade license issued in accordance with this Article may be renewed upon a majority vote of the Governing Body for an additional year upon the same terms and subject to the same requirements as provided herein for an original license.

(b) If a licensee desires to change the location of his or her place of business, he or she shall make an application to the Governing Body showing the same information relating to the proposed location as in the case of an original application. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to the place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

(c) No license issued pursuant to this Article shall be assignable or transferable, nor shall any person or entity excepting the person or entity to which it was issued be permitted to do business thereunder either directly or indirectly.

(Ord. 1426, Sec. 10; Code 1989)

5-911. License Revocation or Suspension.

The Governing Body may revoke or suspend any license issued in accordance with this Article after having given the licensee notice and an opportunity to be heard on why the license should not be suspended or revoked. Notice shall be given at least 10 days in advance of the hearing by certified mail to the licensee at his or her residence address listed on the application. The notice shall advise the interested parties of the time and place of the public hearing and the reasons why suspension or revocation is being considered.

(Ord. 1426, Sec. 11)

5-912. Same; Grounds.

The Governing Body may, after notice and hearing as provided in Section 5-911, revoke or suspend a license for any of the following reasons:

- (a) The licensee has fraudulently obtained the license by giving false information on the application therefore;
- (b) The licensee has violated any of the provisions of this Article;
- (c) The licensee has become ineligible to obtain the license;
- (d) The licensee has failed to pay the license fee;
- (e) The licensee knowingly employs any person who has been convicted of a felony involving moral turpitude or any offense involving the sale or distribution of intoxicating liquor, cereal malt beverage or controlled substance;
- (f) For permitting any intoxicated person to remain upon the licensed premises;
- (g) For permitting any gambling in or on the licensed premises;

(h) For permitting the sale, consumption, possession or use of any controlled substance on the premises;

(i) For permitting the sale or consumption of any intoxicating liquor or cereal malt beverage on the premises except where the premises is also a duly licensed private club or where the premises is licensed for the sale of cereal malt beverages;

(j) For permitting littering on the premises or permitting any other condition inconsistent with the health, safety, building or fire codes of the City. (Ord. 1426, Sec. 12)

ARTICLE 10. MASSAGE THERAPY**5-1001. Definitions.**

(a) Accredited School: Any school or institute of learning which is accredited by the State Board of Education or equivalent and approved by any state massage specific license organization. For schools located in states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board for Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Article.

(b) Business premises: Those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.

(c) Employee: Refers to any person, other than massage therapists, who renders any service to a licensee under this Article, who receives compensation from the licensee or patron.

(d) Establishment Applicant: Refers to any individual, who applies as an individual or a group of individuals; each stockholder who holds more than ten (10) percent of the stock of the corporation and each officer and director, if the application is a corporation; each partner, to include limited partners, if the applicant is a partnership.

(e) Establishment Representative: An employee, manager, independent contractor, unpaid volunteer or anyone who works at or on behalf of a massage establishment.

(f) Healing Arts Practitioner: Defined by the provisions of K.S.A. 65-2801, et. seq. and refers to a license issued to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(g) In-office massage therapy: Massage that is conducted on the business premises of a massage client and is limited to massage therapy applied only above the massage client's waist. The patron must be fully clothed.

(h) In-office massage therapy establishment: Any establishment having a place of business where any person, firm, partnership, association, or corporation engages in the activities mentioned in 5-1001 (f) for compensation.

(i) Massage Therapy: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. Massage as defined herein does not include the touching in any fashion of human genitalia.

(j) Massage therapy establishment: Any establishment where any person, firm, partnership, association, or corporation engages in or carries on or permits to be engaged in or carries on any of the activities mentioned in 5-1001 (f) for compensation but does not include "in-office massage therapy establishments".

(k) Massage therapy (therapeutic): The practice of therapeutic massage as the application of various techniques to the muscular structure and soft tissues of the human body, as a healing art, strictly non-sexual, requiring proof of education, training or education from an institution or business with accreditation recognized by the State, or as an apprentice to a licensed therapeutic massage therapist.

(l) **Massage therapist:** Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(m) **Patron:** Any person who utilizes or receives the services of any establishment subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist only if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.

5-1002. Reference to Chief of Police, Other Staff.

Any reference in this Article to the Chief of Police, City Clerk, Planning Director, Building Official, Code Enforcement Officer or Fire Chief shall include those persons, designees and any individuals designated by the City Manager.

5-1003. Business License Required.

No person, firm, partnership, association or corporation shall operate an in-office massage therapy establishment and/or massage establishment, as defined herein, without first having obtained a business license therefor, issued by the Governing Body of this City. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license shall be valid for a period of twelve (12) months from the date of issuance; provided individuals conducting in-office massage therapy as defined by this Article shall be required to hold only one (1) permit; and provided further that individuals conducting massage therapy on permanent premises in addition to providing in-office massage therapy must hold a separate permit for in-office massage therapy and for the massage therapy establishment conducted on permanent premises.

5-1004. Limitations on In-Office Massage Therapy Licenses.

The authority granted a licensee issued an in-office massage therapy license is limited to the authority to conduct massage therapy on the non-permanent office premises of the licensee's clients and specifically does not include the authority to conduct massage therapy at a permanent premises operated by the licensee; provided, the licensee must have a permanent business office located within the City. If the licensee desires to conduct massage therapy both on the non-permanent office premise of the licensee clients and a permanent premises operated by the licensee, the applicant must obtain a separate license for in-office massage therapy establishment and a massage establishment license by submitting separate applications for each, provided only one (1) license fee shall be charged for both applications.

5-1005. Massage Therapist License Required, Categories, Educational Requirements, Renewal & Restrictions.

No person shall perform massage therapy or in-office massage therapy within the City, unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Article. It is unlawful to perform such services unless the license issued is current, unrevoked and not suspended. Such license is not transferable or refundable and shall be valid for a period of twelve months from the date of issuance.

(a) The massage therapist license and educational requirements shall be as follows:

- (1) **Massage Therapist.** To be eligible for issuance of a Massage Therapist license, an applicant must provide proof of completion of:
 - (A) Successful completion of a course of instruction of not less than 500 hours, in the theory, method or practice of massage from one or more accredited schools. All practical and/or modality instruction must be completed as in-classroom/hands-on instruction, while theory instruction may be completed online. The applicant must also have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent and provide current certification.
 - (B) Proof of successful passage of the Board Certification exam administered by the National Certification Examination for Therapeutic Massage and Bodywork. The applicant must also have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent, and provide current certification.

(b) Proof of completion of educational and training requirements must be by certified transcripts. The educational and training requirements required by this Article may be received from more than one school. An hour of instruction is defined as fifty minutes of actual instructional time.

(c) All applicants for renewal of a massage therapist license in any category must provide proof of recertification in American Red Cross first aid and American Heart Association CPR or the equivalent thereof prior to the approval of any renewal.

(d) All licensed massage therapists who apply for a renewal license must show proof that they received a minimum of twelve hours (fifty minutes per hour) of professional massage continuing education in the preceding twelve-month period. One hour continuing education credit will be awarded for each hour attendance at programs that relate to the theory or clinical application of theory pertaining to the practice of massage to include, but not limited to, clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws that are sponsored by a university, junior college or otherwise found to be acceptable by the City Clerk.

(e) Massage therapists shall notify the City of any change in employment within thirty (30) calendar days of the change to include a change in the therapist's employer or the addition or reduction of locations they perform massage therapy.

5-1006. Application for Massage Therapy Establishment and In-Office Massage Therapy Establishment Business License; Fees.

Every applicant for a business license to maintain, operate or conduct any establishment covered by this Article shall file an application with the City Clerk and pay an annual fee, as approved by the City Council, to the City Clerk, which shall not be refundable and an annual renewal fee as approved by the City Council. Sole practitioners who own and operate an establishment and are the only massage therapist on the premises will only be required to pay the annual massage therapy establishment and/or in-office massage therapy establishment business license fee.

The application for a license to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities and the name, address, and telephone number of each applicant.

In addition, any applicant for a business license shall furnish the following information:

- (a) Written proof that the applicant and/or manager is at least 18 years old.
- (b) Two portrait photographs at least two (2) inches by two (2) inches, and fingerprints, provided once an applicant has submitted an application containing their fingerprints, they will not have to submit fingerprints in any subsequent renewal application for that person.
- (c) The business, occupation or employment locations and contact information for each applicant and manager for the three (3) years immediately prior to the date of application.
- (d) The massage therapy and in-office massage therapy establishment business license history of the applicant and managers; whether such person, in previously operating in this or another City or State under an establishment or therapist license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- (e) Proof that managers successfully completed an in-person (not online) certification program in American Heart Association CPR and American Red Cross first aid or equivalent in-person programs and provide current proof of certification.
- (f) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- (g) In the case of applicants who intend personally to provide in-office massage therapy or massage therapy, the applicant must also apply for and receive a massage therapist license as provided for in Section 5-1007.
- (h) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the establishment applicant for the license and the managers to work in a massage establishment.
- (i) Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

5-1007. Application for Massage Therapist License; Fees.

Any person who desires to perform or provide massage therapy or in-office massage therapy or to perform any massage services in a massage therapy establishment, as defined herein, shall file a written application with the City Clerk and pay a fee as approved by the City Council to the City Clerk for the first application, which shall not be refundable and an annual renewal fee as approved by the City Council. A massage therapist license shall be valid for a period of twelve (12) months from the date of issuance. This fee shall cover the cost to process the application to include the current KBI fingerprint fee. Only one massage therapy license shall be required for a massage therapist regardless of the activity or activities the therapist engages in that are permitted by this Article. Sole practitioners (who own and operate an establishment and are the only massage therapist on the premises), apply for a massage therapist license of any type and have successfully obtained a massage therapy establishment license or in office massage therapy license are exempt from paying the massage therapist license fee.

The application for a massage therapist license shall contain the following:

- (a) Name, address and telephone number.

(b) Two portrait photographs at least two inches by two inches and a copy of a valid government issued identification card issued by the State of Kansas or Missouri.

(c) Applicant's weight, height, color of hair and eyes and fingerprints, provided once an applicant submitted fingerprints, they shall not be required to submit new fingerprints for any renewal application for that person.

(d) Written evidence that the applicant is at least 18 years old.

(e) Business, occupation, or employment of the applicant for the three (3) years immediately prior to the date of application.

(f) Disclosure of any criminal convictions or diversions, except minor traffic violations, and fully disclose the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.

(g) The position or function the applicant will perform services within each location establishment. (If applicable).

(h) Authorization for the City, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(i) Proof of the education and experience requirements set forth at 5-1005 herein.

(j) Copy of valid government issued identification card issued by the State of Kansas or Missouri.

(k) History of the applicant, whether such person, in operation in Kansas or another state under an establishment license, a therapist license or under another name had such license revoked or suspended and the reason therefor.

5-1008. Massage Therapy Establishment and In-Office Massage Therapy Establishment Business License Application Processing.

Upon receipt of a complete application for a "massage therapy establishment business license," the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application, which will include a background check. In addition, the City Clerk shall transmit a copy of the application to the Planning Director, Building Official, Code Enforcement Officer and Fire Chief, as applicable. 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 applicant is qualified to be issued the license. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Planning Director, Building Official, Code Enforcement Officer and Fire Chief to determine whether the structure where the massage therapy 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, provided the premises need not be designed or set up for the requirements of a license being issued, provided further, all other code and zoning requirements must be met. All standards for premises set forth in 5-1016 must be met prior to the first day the premises opens for business. The Planning Director, Building Official, Code Enforcement Officer and Fire Chief shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police, Planning Director, Building Official, Code Enforcement Officer and Fire Chief, the City Clerk shall schedule the application for consideration by the Governing Body

at the earliest meeting consistent with the notification requirements established by law, provided the license application shall be approved or disapproved within 45 days from the date filed with the Clerk's office. The applicant shall be notified of the date when the Governing Body will consider the application, at which time the applicant will be afforded an opportunity to be heard. If there exist inspection items that relate to the structural design of the premises that cannot be verified prior to consideration of the application by the Governing Body, the Governing Body may approve the application and a license issued contingent upon satisfactory resolution of any such items.

5-1009. Identification Cards.

All massage business establishment owners, managers or massage therapists issued a license pursuant to the provisions of this Article shall, at all times when working in an establishment or providing any service regulated by this Article, have in their possession a valid identification card issued by the City to include the massage therapist's license number, physical description and a photograph. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted licenses under this Article shall at all times keep their licenses available for inspection upon request of any person who by law may inspect same. Provided further that all licensees shall, when conducting in-office massage therapy or massage therapy off their business premises, wear on their clothing in a conspicuous location their identification card.

5-1010. Issuance of Massage Therapy Establishment Business License.

After the filing of an application in the proper form, the Governing Body shall examine the application, and after such examination, shall approve the issuance of a license for an in-office massage therapy establishment or a massage therapy establishment, unless the Governing Body finds that:

(a) The correct license fee was not tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation;

(b) The establishment operation, as proposed by the applicant, if permitted, would not comply with all applicable laws to include, but not limited to, the City's building, zoning and health regulations;

(c) The applicant, if an individual, or any of the stockholders who holds more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, having been convicted of, or diverted on,

- (1) a person felony, as defined by Kansas law;
- (2) a non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;
- (3) an offense involving sexual misconduct with children;
- (4) obscenity;
- (5) promoting prostitution or equivalent charge as defined by K.S.A. 21-3513;
- (6) solicitation of a lewd or unlawful act;
- (7) prostitution;

- (8) pandering or other sexually related offense;
- (9) any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.

(d) The applicant 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 or manager has had a massage therapy establishment or other similar permit or license denied, revoked, suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension for any of the above causes by the City or any other State or local agency within ten (10) years prior to the date of the application;

(f) Any establishment applicant or manager has previously been issued a license for an adult entertainment business or escort service or has been employed by any such establishment.

(g) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, to include limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, has not attained the age of 18 years; and

(h) The manager or other person principally in charge of the operation of the business would be ineligible to receive any license under the provisions of this Article.

The record of the Governing Body shall show the action taken on the application, and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek judicial review to the Wyandotte County District Court as provided by law. Upon denial, any establishment applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial.

5-1011. Application Process and Issuance of Massage Therapist License.

The City Clerk shall issue a massage therapist license within 21 days following application, unless he/she finds that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on,
 - (1) a person felony, as defined by Kansas Law;
 - (2) a non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;
 - (3) an offense involving sexual misconduct with children;
 - (4) obscenity;
 - (5) promoting prostitution as defined by K.S.A. 21-3513;

- (6) solicitation of a lewd or unlawful act;
- (7) prostitution;
- (8) pandering or other sexually related offense;
- (9) any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years preceding the date of the application.

(b) The applicant 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;

(c) The applicant had a massage establishment or therapist permit or license denied, revoked or suspended or involuntarily surrendered the permit or license in lieu of revocation or suspension by the City or any other state or local agency within ten (10) year prior to the date of application.

(d) The applicant was issued a license for an adult entertainment business or escort service or was employed by any such establishment within ten (10) year prior to the date of application.

(e) The applicant has not attained the age of 18 years.

(f) That the correct license fee has not been tendered to the City, and in the case of a check or bank draft, honored with payment upon presentation;

(g) That the applicant has not successfully completed the education standards required under the provisions of this Article.

The record of the Governing Body shall show the action taken on the application, and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek judicial review to the Wyandotte County District Court as provided by law. Upon denial, any establishment applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial.

5-1012. Revocation or Suspension of Business License.

(a) Any business license issued for an in-office massage therapy establishment or a massage therapy establishment may be suspended or revoked by the City Clerk for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for in this Article.

(b) Written notice shall be sent to the person entitled to notice as stated in the business license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the Governing Body to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the business license, if a licensee, its employee, or agent:

- (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof.
- (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal.
- (3) Allows the use of his or her establishment by an unlicensed person.
- (4) Violates any zoning, building or fire prevention ordinance.
- (5) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy.
- (6) Has been convicted, to include a massage therapist, of any offense found in 5-1011 and 5-1012 herein and the licensee has actual or constructive knowledge of the violation or conviction.
- (7) Conducts or allows to be conducted any other business enterprise in the establishment.
- (8) Conducts any illegal activities or allows them to be conducted by anyone else.
- (9) Has an arrest record for any sexual offense or violation.
- (10) Has fraudulently obtained a license pursuant to the provisions of this ordinance.
- (11) Has ceased to meet any of the requirements for issuance of a massage therapy license or massage therapy establishment license.
- (12) Refuses to permit any duly authorized police officer or employee of the City to inspect the premises or the operations of the licensee.
- (13) Fails to comply with all applicable laws and regulatory provisions herein.

(c) Business Closed and Posted. Upon suspension or revocation of the business license, the business shall cease to operate and City officials shall post the business as closed.

(d) Appeal. Upon receipt of a written request delivered to the City Clerk, an appeal of the suspension or revocation shall be heard by the Governing Body within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The Governing Body shall make a final determination as to suspension or revocation. A licensee aggrieved by the decision of the Governing Body may appeal the decision to the Wyandotte County District Court as provided by law.

5-1013. Revocation of Massage Therapist License.

(a) Any Massage Therapist license issued for a massage therapist may be suspended or revoked by the City Clerk for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for in this Article.

(b) Written notice shall be sent to the person entitled to notice as stated in the Massage Therapist license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation, and shall notify the licensee of the licensee's right to a hearing before the Governing Body to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the Massage Therapist license, if a licensee:

- (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof.
- (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal.
- (3) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy.
- (4) Convicted of any offense found in 5-1011 and 5-1012 herein.
- (5) Conducts any other business enterprise in the establishment.
- (6) Conducts any illegal activities.
- (7) Has an arrest record for any sexual offense or violation.
- (8) Has fraudulently obtained a license pursuant to the provisions of this ordinance.
- (9) Has ceased to meet any of the requirements for issuance of a massage therapy license.
- (10) Refuses to permit any duly authorized police officer or employee of the City to inspect the records of the operations of the licensee.
- (11) Fails to comply with all applicable laws and regulatory provisions herein.

(c) Upon suspension or revocation of the Massage Therapist license, the Massage Therapist shall cease to operate in the City of Bonner Springs.

(d) Appeal. Upon receipt of a written request delivered to the City Clerk, an appeal of the suspension or revocation shall be heard by the Governing Body within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The Governing Body shall make a final determination as to suspension or revocation. A licensee aggrieved by the decision of the Governing Body may appeal the decision to the Wyandotte County District Court as provided by law.

5-1014. Inspection Necessary.

No business shall be conducted on licensed premises unless an inspection by the Building Official or an authorized representative reveals that the establishment complies with each of the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door that can be locked. These provisions are not applicable to an in-office massage therapy establishment.

(b) Toilet facilities shall be provided in convenient locations. When five (5) or more massage establishment employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. These provisions are not applicable to an in-office massage therapy establishment.

(c) Lavatories or wash basins provided with both hot and cold 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. These provisions are not applicable to an in-office massage therapy establishment.

(d) At least one water fountain, water cooler or bottled water shall be provided but shall not be located in toilet rooms or bathrooms.

The Building Official 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 and Chief of Police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance that relates to the maintenance of premises, nor to preclude authorized inspection thereof.

5-1015. Inspections, Immediate Right of Entry.

The Police Department and Building Official may from time to time make an inspection of each licensed establishment in this City, to include those locations where an in-office massage therapy establishment conducts its business and areas where a therapist performs massage therapy, to determine that the provisions of this Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee, manager or representative to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee, manager or representative to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license.

5-1016. Operation Regulations.

The operation of any in-office massage therapy establishment or massage therapy establishment, to include the provision of service by massage therapists, shall be subject to the following regulations:

(a) Hours. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day provided the hours of operation for in-office massage therapy may be extended for in-office therapy conducted on premises with established evening and night shifts.

(b) Separation of sexes. It shall be unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time. This provision is not applicable to in-office massage therapy establishments.

(c) Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the Building Official, Property Maintenance Officer or Fire Chief to the safety or health of any person, and after such notice in writing has been delivered to the licensee from such director.

(d) Alcoholic beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises licensed under the provisions of this Article or during in-office massage therapy. Provided this restriction shall not apply to businesses where the licensed massage therapy is accessory to the predominant business purpose of the establishment, provided further, no alcohol is permitted on that portion of such premises where massage therapy occurs.

(e) Conduct of premises. All licensees licensed under the provisions of this Article shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or her employees which constitutes a violation of the provisions of this Article. Any violation of the City, State, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or may be grounds for suspension or revocation of same.

(f) Every portion of a licensed establishment to include appliances and personnel shall be kept clean and operated in a sanitary condition.

(g) All licensees and representatives shall be clean and wear clean, modest outer garments. On all premises except in-office massage therapy establishments, provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(h) All licensed employees and massage therapists must be modestly attired. Diaphanous or transparent clothing is prohibited. Clothing must cover the licensee's employees' or massage therapists' chests at all times.

(i) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.

(j) All licensed establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and such items shall be laundered after each use thereof and stored in a sanitary manner.

(k) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soak areas shall be thoroughly cleaned after each use.

(l) Table showers are strictly prohibited.

(m) No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of the licensee who operates an establishment in his/her home or residence but shall not reside, inhabit or sleep in the portion of the home or residence devoted to the practice of massage therapy.

5-1017. Supervision.

A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed as a Massage Therapist shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this Article. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee.

5-1018. Employee and Patron Registers.

(a) All establishments licensed under the provisions of this Article shall keep and maintain on their premises a current register of all their establishment representatives and list such employee's name, address and license number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the Police Department.

(b) Every person who engages in or conducts a licensed establishment shall keep a daily register of services provided and all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by City officials and by the Police Department and shall be kept on file for one (1) year.

5-1019. Persons Under Age 18 Prohibited Services.

No licensee shall perform or permit any massage therapy to be provided to a person under the age of 18, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian authorized such therapy in writing.

5-1020. Advertising.

No establishment granted a license under provisions of this Article shall place, publish, or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in 5-1001, or that employees or massage therapists are dressed in any manner other than described in 5-1016.

5-1021. Transfer of Licenses; Other Licenses and Fees.

(a) No massage therapy establishment or in-office massage therapy establishment, or massage therapist licenses are transferable and such authority as a license shall be conferred only on the licensee named therein.

(b) Any applications made, fees paid, and licenses obtained under the provisions of this Article 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 ordinances of this City.

5-1022. Applicability to Existing Businesses.

The operators of any existing massage therapy establishment or in-office massage therapy establishment must comply with all provisions of this Article, subject to the educational and experience requirements set forth in Section 5-1005.

5-1023. Exceptions.

The provisions of this Article shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of this State, persons licensed to practice as a physical therapist under the laws of this State, or persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.

5-1024. Further Regulations.

The City Clerk, Chief of Police or the City Manager may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Article.

5-1025. Restriction of Business to Premises.

(a) All massage therapy (not to include in-office massage therapy) provided for under this Article shall be conducted on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:

- (1) If done at the direction of a licensed healing arts practitioner, or
- (2) If done at the written request of a person that shall provide the name and address of the requesting person, the date and time of the service, and the fees charged for the service. When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by any City official. Private residence massage therapy shall not be conducted between the hours of 10:00 p.m. and 9:00 a.m.

(b) All license massage therapy establishments shall be operated from a commercial business premise or shall be allowed by Special Use Permit in R-1 and R-1A residential zoning districts upon review and recommendation by the Planning Commission and approval by the Governing Body. Sole practitioners (therapists who work alone), are required to have both a massage therapist license and massage therapy establishment license and may work from a commercial business premise or private home, residence or non-commercial business establishment. (Ord. 2158, 1-2007)

(c) Massage therapy is permitted in the guest rooms of hotels and bed and breakfast establishments upon written approval of the hotel and bed and breakfast owners and/or managers. (Ord. 2393)