

CHAPTER VI. BUSINESS LICENSES, TAXES AND REGULATIONS

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ARTICLE 1. LICENSES GENERALLY

- 6-101 **LICENSES REQUIRED.**
Except as otherwise provided in this Article, no person, whether as principal, officer, agent, servant or employee or otherwise, shall:
- (A) Conduct, pursue, carry on or operate within the corporate limits of the City any of the callings, trades, professions, businesses or occupations specified in Section 6-108 of this Article without having first paid to the City Clerk an occupation tax, license tax or permit fee as prescribed in such Section and having first procured a license or permit to engage in and carry on such calling, trade, profession, business or occupation.
 - (B) Failure to comply with all of the regulations provided in this Chapter. (Code 1979, 6-601)
- 6-102 **LICENSE TAXES LEVIED; REGULATIONS; TERMS.**
License taxes are hereby levied and regulations imposed upon the respective callings, trades, professions, businesses or occupations conducted, pursued, carried on or operated within the corporate limits of the City as specified and prescribed in Sections 6-108:108.21.
- Except as otherwise provided in this Code, all licenses issued in pursuance of the provisions of this Chapter shall expire and terminate on the last day of December of each year, except such license as may be issued for a period of less than twelve (12) months. (Code 1979, 6-602)
- 6-103 **LICENSE NOT TRANSFERABLE.**
No license issued under this Chapter shall be transferable or assignable, except by a resolution authorizing it passed by the Board of Commissioners, or as otherwise provided in this Code. (Code 1979, 6-103)
- 6-104 **PERSONS REQUIRED TO CARRY LICENSES.**
All persons licensed under this Chapter not having a permanent location are required to carry their licenses with them, and all such persons shall present their licenses for inspection when requested to do so by any officer of the City. (Code 1979, 6-104)
- 6-105 **WHEN DUE AND PAYABLE.**
Except as otherwise provided in this Code, all original annual licenses shall be due and payable immediately upon the commencement of the business, calling, trade, occupation or profession for which they are issued, and all renewals thereof on the first business day of January in each year. (Code 1979, 6-105)
- 6-106 **REVOCAION.**
Except as otherwise provided in this Code, any license issued under the terms and provisions of this Chapter shall be revoked by the board of commissioners of the City for any of the following reasons:
- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor.
 - (b) If the licensee has violated any of the provisions of this Chapter or any rule or regulation made by the Board of Commissioners of the City regulating the conduct of the particular calling, trade, profession, business or occupation

covered by such license.

- (c) If a licensee has become ineligible to obtain a license under this Chapter.
- (d) For the nonpayment of any license fees payable under this Chapter.
- (e) For permitting any gambling or any violation either of the intoxicating liquor laws of the State or of Chapter IV of this Code upon the licensed premises.
- (f) For the conviction of the licensee in any court for the violation of any laws of this state or ordinances of the City regulating such calling, trade, profession, business or occupation.
- (g) For conviction of the licensee in any court of any offense against the laws of the state or ordinances of the City involving moral turpitude. Where any calling, trade, profession, business or occupation licensed under this Chapter is governed by a specific Section of this Code containing an express provision for the revocation of such license, the terms of such specific Section of this Code containing an express provision for the revocation of such license shall supersede and take precedence over the revocation provisions contained in this Article. In case a license is revoked on any of the grounds set out above, no new license to carry on such calling, trade, profession, business or occupation shall be issued under the provisions of this chapter to the licensee for six (6) months from the date that the revocation takes effect. The licensee shall be given an opportunity to be heard after at least seven (7) days' written notice. (Code 1979, 6-106)

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LICENSES ISSUED; CONTENTS; CITY CLERK'S RECORDS.

Except as otherwise provided in this Code, the City Clerk shall, upon receipt from the applicant for a license of the amount specified in Sections 6-108.1:108.21 of this Article, issue to such applicant a license, stating the kind or nature of the business to be carried on or transacted, to whom issued, the time when such license will expire, the amount paid therefor, and the location, if any, of the applicant's place of business. The Clerk shall keep a record of all licenses issued by him in a book kept for that purpose, showing their nature, date of expiration, to whom issued and the location of the business as aforesaid. (Code 1979, 6-107)

6-108

SCHEDULE.

All businesses, trades and occupations set forth in the following sections shall obtain a license prior to operating in the City. The amount, the period covered, and the expiration of the licenses required shall be as follows: (Ord. 8634)

Code Section	Classification	Amount	Period	Expiration
6-108.1	ALCOHOLIC BEVERAGES			
	Retailer , Alcoholic Beverages, including beer containing more than 3.2% of alcohol by weight, for consumption off premises.	\$600.00	Period covered by state license.	
	Retailer , General Of cereal malt beverages each place of business selling at retail (as defined in	\$225.00 Includes state stamp fee	1 year	Dec. 31

	Section 4-201) Retailer , Limited Of cereal malt beverages (as defined in Section 4-201). Each place of business selling at retail in unopened container and not for consumption on premises. Caterers Class A Club Class B Club Drinking Establishments Temporary Liquor Permit (per event) Temporary Cereal Malt Beverage Permit (per event)	\$75.00 Includes state stamp fee \$500.00 \$500.00 \$500.00 \$500.00 \$25.00 \$ 25.00 Plus state stamp fee	1 year Period covered by state license Period covered by state license Period covered by state license Period covered by state license Period covered by state license Period approved by city license officer	Dec. 31
6-108.2 (Ord. 9305)	BODYWORK Bodywork Practitioner License Bodywork Practitioner License Renewal Replacement ID Card	\$75 \$50 \$15	2 year Lost or stolen	2-years after date of issue
6-108.3 (Ord. 9207)	DOG KENNELS Each renewal	\$ 20.00 \$ 10.00	1 year 1 year	Dec. 31 Dec. 31
6-108.4	ELECTRICAL CONTRACTOR First year Each renewal	\$200.00 \$ 50.00	1 year 1 year	Dec. 31 Dec. 31
Code Section	Classification	Amount	Period	Expiration
6-108.5	ELECTRICIAN, JOURNEYMAN			

	Original, in addition to \$10.00 for exam.	\$ 20.00	1 year	Dec. 31
	Each Renewal	\$ 10.00	1 year	Dec. 31
6-108.6	ALARM CO. (Ord 8423) Late charge (60 days late) Each renewal	\$300.00 \$75.00 \$150.00	1 year 1 year	Dec. 31 Dec. 31
6-108.7	Reserved.			
6-108.8	GAS FITTERS Master, first year Each renewal Journeyman, first year Each renewal	\$ 30.00 \$ 15.00 \$ 7.50 \$ 3.00	1 year 1 year 1 year 1 year	Dec. 31 Dec. 31 Dec. 31 Dec. 31
6-108.9	ICE CREAM Sales from vehicle in street, per vehicle	\$ 25.00	6 months	Dec. 31 & June 30
6-108.10	MERCHANT POLICE Service permit Application made within last 6 months of calendar year Merchant police officer Application made within last 6 months of calendar year Each renewal	\$200.00 \$100.00 \$ 50.00 \$ 25.00 \$ 25.00	1 year 1 year 1 year	Dec. 31 Dec. 31 Dec. 31 Dec. 31 Dec. 31
6-108.11	PAWNBROKER	\$ 25.00	1 year	Dec. 31
6-108.12	PLUMBERS, MASTER Each renewal	\$100.00 \$ 50.00	1year 1year	Dec. 31 Dec. 31
6-108.13	PLUMBERS, JOURNEYMAN Each renewal	\$ 20.00 \$ 10.00	1 year 1 year	Dec. 31 Dec. 31
6-108.14	SALES Going out of business	\$150.00	30 days	
6-108.15	SIGN HANGER Each renewal	\$100.00 \$ 50.00	1 year 1 year	Dec. 31 Dec. 31

Code Section	Classification	Amount	Period	Expiration
6-108.16 (Ord. 8843)	SOLICITOR AND PEDDLERS	\$250.00	1 year	Dec. 31
	TRANSIENT MERCHANTS	\$50.00	5 days	
6-108.17 (Ord. 9092)	TAXICABS Taxicab Business Permit Taxicab License (per vehicle)	\$100.00 \$ 50.00	1 year 1 year	Dec. 31 Dec. 31
6-108.18	STREET VENDORS Each stand/each vehicle per day; or Each stand/each vehicle per year and per month: Each subsequent /consequent year And per month:	\$ 25.00 \$300.00 \$ 50.00 \$200.00 \$ 50.00	1 day 1 year 1 year	 Dec. 31 Dec. 31
6-108.19	HORSE DRAWN VEHICLE	\$ 50.00	1 year	Dec. 31
6-108.20	TREE TRIMMERS First year First year, if certified by Kansas Arborist Assoc. Each renewal Dead tree removal only First year Each renewal	\$ 60.00 \$ 30.00 \$ 18.00 \$ 30.00 \$ 12.00	1 year 1year 1 year 1 year 1 year	Dec. 31 Dec. 31 Dec. 31 Dec. 31 Dec. 31
6-108.21	VALUABLE PROPERTY DEALER Permanent address Temporary address Display	\$ 25.00 \$ 25.00 \$ 25.00	1 year 60 days Duration of show	Dec. 31
6-108.22	MOBILE FOOD VENDORS	\$300.00	1 year	Dec. 31

(Ord. 5303; 5411; 5520; 5886; 6296, Ord. 8571)

**ARTICLE 2. BUSINESS REGULATIONS FOR
NON-ENTERTAINMENT SEXUALLY ORIENTED BUSINESSES**

6-201

DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the following meanings, except where the context clearly indicates: (Ord. 7227)

- (A) Bathhouse means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated by a medical practitioner or professional physical therapist, licensed by the state.
- (B) Display publicly describes the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street,

highway or public sidewalk, or from the property of others, or from any portion of the person's store or property where items and material other than sexually oriented media are offered for sale or rent to the public.

- (C) Explicit sexual material means any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or anthropological significance shall not be deemed to be within the foregoing definition.
- (D) Gross public floor area means the total area of the building accessible or visible to the public, including showrooms, motion picture theatres, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.
- (E) Massage shop means an establishment which has a fixed place of business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of, external parts of the human body with the hands or with the aid of any mechanical, electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity, provided that this term shall not include any establishment operated by a medical practitioner, professional physical therapist licensed by the State of Kansas, or a certified massage therapist.
- (F) Media means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything which is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.
- (G) Media store means a retail outlet offering media for sale or rent for consumption or enjoyment off the premises, provided that any outlet in which sexually oriented media constitute more than 40 percent (40%) of the stock in trade and/or occupy more than 40 percent (40%) of the gross public floor area shall be considered an "sexually oriented media store."
- (H) Modeling studio means an establishment or business which provides the services of modeling for the purposes of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise.
- (I) Motion picture arcade booth means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting motion-pictures or viewing publications by any photographic, electronic, magnetic, digital or other means or medium (including, but not

limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines or periodicals) for observation by patrons therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth”.

- (J) Operator means any person operating, conducting or maintaining a sexually oriented business.
- (K) Primary live entertainment means that entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.
- (L) Sadomasochistic practices mean flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.
- (M) Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:
 - (1) It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its gross public floor area;
 - (2) More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or
 - (3) More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.
- (N) Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theatre; motion picture arcade; bathhouse; massage shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances. For purposes of this ordinance, “sexually oriented business” shall also include sexually oriented bookstores, sexually oriented media stores and sexually oriented video stores.
- (O) Sexually oriented cabaret means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the “primary live entertainment” is distinguished or characterized by an emphasis on exhibiting “specific sexual activities” or “specified anatomical areas” for observation by patrons therein.
- (P) Sexually oriented media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined).
- (Q) Sexually oriented media store means an establishment that rents and/or sells media and that meets any of the following tests:

- (1) More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
 - (2) More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
 - (3) It advertises or holds itself out in any forum as “XXX,” “sexually oriented,” “sex” or otherwise as a sexually oriented business other than a sexually oriented media store, sexually oriented motion picture theatre or sexually oriented cabaret.
- (R) Sexually oriented motion picture theater means an establishment or business which regularly and predominately features films, tapes or motion pictures to an audience which are rated NC-17 by the Motion Picture Association of America (MPAA) and contain sexually oriented material.
- (S) Sexually oriented toys or novelties mean instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
- (T) Specified anatomical areas mean and include: (1) less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (U) Specified sexual activities mean and include human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (V) Video store is defined here as an exclusive term, identifying a category of business that may include sexually oriented material but that is not regulated under the provisions of this ordinance. In that context, *video store* means a retail outlet offering video cassettes, disks or other video recordings for sale or rent, provided that any outlet in which sexually oriented media constitute more than 40 percent (40%) of the stock in trade and/or occupy more than 40 percent (40%) of the gross public floor area shall be considered an “sexually oriented media outlet.” See special conditions in applicable zoning districts for video stores in which sexually oriented media constitute more than 10 percent but less than 40 percent of the stock in trade or occupy more than 10 percent but less than 40 percent of the gross public floor area.

6-202

UNLAWFUL OPERATIONS.

It shall be unlawful for any person to operate or maintain a sex shop in the City unless the owner, operator or lessee thereof has obtained a sex shop license from the City, or to operate such business after such license has been revoked or suspended by the City. (Ord. 7227)

It shall be unlawful for any employee, manager, operator or owner to knowingly perform any work or service directly related to the operation of an unlicensed sex shop. (Ord. 7227)

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LICENSE, CLASSIFICATION AND FEES.

- (A) The license year for all fees required herein shall be from each January 1 through December 31. There shall be no fee for the license required until January 1, 2001. The application for a license shall be accompanied by payment in full of the fee stated herein by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid. (Ord. 7227)
- (B) All licenses shall be issued for a specific location and shall be nontransferable, and license fees shall be nonrefundable. Sex Shop license fee is \$250.00 per year. (Ord. 7227)

6-204

LICENSE APPLICATIONS FOR SEX SHOPS.

- (A) Sex Shop Business License.

All persons desiring to secure a license to operate a sex shop business as required herein shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information: (Ord. 7227)

- (1) The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant.
- (2) The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.
- (3) The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.
- (4) The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders or members who own more than 25% interest in the corporation.
- (5) A statement from the applicant whether the applicant, or any corporate officer or director, or stockholder, partner or member who owns more than 25% interest in such entity in previously operating in this or another city, county or state, has had an adult business or sex shop license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity

subjected to the suspension or revocation.

- (6) A statement from the applicant, all partners or each corporate officer and director that each such person has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or municipal ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

- (7) On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each employee, a health certificate from a duly licensed Kansas physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement. For each person who is employed, the above described health certificate shall be submitted to the City Clerk within 48 hours of the time such person begins employment.
- (8) If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State.
- (9) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this ordinance regulating adult businesses.

Failure to provide the information and documentation required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within 10 working days of the date the application is received by the City Clerk.

- (B) Application processing. (Ord. 7227)

Upon receipt of an application for a sex business, the City Clerk shall, within three business days, examine the application to determine if it is complete. If it is not complete, the City Clerk shall, on or before the fourth (4th) day

after filing the application, return the application and the tendered fee to the applicant, together with a checklist of the omissions or errors that make it incomplete. If the application is complete, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Director of Neighborhood Resources, the Director of Planning and the Fire Inspector. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license for which the application is made. 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 Director of Neighborhood Resources, the Director of Planning and the Fire Inspector to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Director of Neighborhood Resources, the Director of Planning and the Fire Inspector 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, the Director of Neighborhood Resources, the Director of Planning and the Fire Inspector, 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 for a sex shop license shall be approved or disapproved within thirty (30) days from the date the application is received by the City Clerk. The applicant shall be notified in writing of the date when the governing body will consider the application and shall be afforded an opportunity to be heard at that meeting.

(C) Examination of Application, Issuance of License, Disapproval.
(Ord. 7227)

- (1) The Governing Body shall examine an application for an adult business license, or a manager, server, or entertainer license within thirty (30) days of the date such application was received by the City Clerk. After such examination, the governing body shall approve the issuance of a license only if the appropriate license fee has been paid, applicant is qualified, and all the applicable requirements set forth herein are met. No license shall be approved for any person ineligible pursuant to the provisions herein. All incomplete applications shall be denied.
- (2) 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 sex shop license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued.
- (3) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the State of Kansas

6-205

LICENSE - INELIGIBILITY AND DISQUALIFICATION.

No person is eligible nor shall a license be issued to an applicant for a sex shop license if one or more of the following conditions exist: (Ord. 7227)

- (1) The premises for which an application for a sex shop is in violation of the Zoning Ordinances or Subdivision Regulations of the City of Lawrence, Kansas;
- (2) The applicant failed to supply all of the information requested on the application;
- (3) The applicant gave materially false, fraudulent or untruthful information on the application;
- (4) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Governing Body;
- (5) The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein;
- (6) The applicant has had an adult business license or comparable license revoked or suspended in this or any other city during the past five (5) years; or
- (7) If the applicant is applying for a license to operate a bath house or body painting studio and applicant has not produced a health certificate as required herein for all persons working on the premises.

6-206

STANDARDS OF CONDUCT.

The following standards of conduct shall be adhered to by all sex shop businesses, their employees and all managers, and patrons of adult businesses, while on or about the premises of the business: (Ord. 7227)

- (A) Age restriction.

Only persons 18 years of age or older shall be permitted on the premises of a sex shop.
- (B) Exterior Observation.

The premises of all sex shops will be so constructed as to ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
- (C) Exterior Display.

No sex shop will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

(D) Nudity prohibited.

No manager, employee, server, or patron in an adult business other than a licensed bath house shall be nude, or clothed in less than opaque attire.

(E) Certain Acts Prohibited.

(1) No manager, employee or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities or participate in any act of prostitution as prohibited by state law or municipal ordinance while on the premises of an adult business.

(2) All dancing or other live entertainment shall occur only as allowed pursuant to the laws of the City.

(3) No owner, employee, or patron of a sex shop while on the premises of a sex shop shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such owner, employee, or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

(4) No owner, operator, manager or other person in charge of the premises of a sex shop shall:

(a) permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current drinking establishment or cereal malt beverage license;

(b) allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

(c) allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult entertainment business;

(d) allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by state law or municipal ordinance; or

(e) allow or permit a violation of this ordinance or any other city ordinance provision or state law.

(F) Lighting required.

The premises of all sex shops shall be equipped with overhead lighting of every place to which customers are permitted access, at an illumination of not less than one footcandle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises. (Ord. 7227)

- (G) Closed booths or rooms prohibited.

The premises of all sex shops shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. (Ord. 7227)

- (H) Ventilation and sanitation requirements.

The premises of all sex shops shall be kept in a sanitary condition. Separate rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

- (I) Hours of operation.

No sex shop may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day.

6-207

INSPECTORS AND INSPECTIONS.

All sex shop businesses shall permit representatives of the police department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws. (Ord. 7227)

6-208

SUSPENSION, REVOCATION, OR NONRENEWAL OF LICENSE.

Whenever the City Clerk has information that: (Ord. 7227)

- (A) The owner or operator of a sex shop has violated, or knowingly allowed or permitted the violation of, any of the provisions of this ordinance; or
- (B) There have been recurrent violations of provisions of this ordinance that have occurred under such circumstances that the owner or operator of a sex shop knew or should have known that such violations were committed; or
- (C) The sex shop business license was knowingly obtained through false statements in the application for such license, or renewal thereof; or
- (D) The sex shop licensee knowingly failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
- (E) The owner or operator, or any partner, or any corporate officer or director holding a sex shop business license has become disqualified from having a license by a conviction as provided herein; or
- (F) If the holder of a license has become disqualified from having a license by a conviction as provided herein, then the City Clerk shall make this information known to the Governing Body, which, upon five (5) day's written notice to the person holding the license, shall conduct a public hearing to

determine whether the license should be suspended or revoked. The Governing Body may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the governing body may take any of the following actions:

- (1) Suspend the license for up to ninety (90) days;
- (2) Revoke the license for the remainder of the license year; or
- (3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the ordinance occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

6-209

RENEWAL.

- (A) A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31 of each calendar year, and renewal applications for such licenses shall be submitted between December 16 and December 31. (Ord. 7227)
- (B) Upon timely application and review as provided for a new license, a license issued under the provisions of this ordinance shall be renewed by issuance of a new license in the manner provided herein. (Ord. 7227)
- (C) If the application for renewal of a license is not made during the time provided herein, the expiration of such license shall not be affected, and a new application shall be required.

6-210

PROHIBITIONS.

No person shall operate or maintain a massage shop, modeling studio, sexually oriented motion picture theater or motion picture arcade booth within the City. (Ord. 7227)

6-211

SEXUALLY ORIENTED MEDIA STORE.

No sexually oriented media store shall be allowed to operate, sell, rent or conduct business unless it prohibits the admittance of persons under the age of 18 into the place of business or provides a clear physical separation within the store between sexually oriented media and media which is not sexually oriented. (Ord. 7227)

6-212

JUDICIAL REVIEW - STAY OF ENFORCEMENT OF ORDERS.

Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this ordinance, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review. (Ord. 7227)

6-213

PENALTY.

It shall be unlawful for any person to violate any of the provisions of this ordinance. Upon conviction thereof, such person shall be fined not less than \$100.00 nor more than \$500.00, or be punished by incarceration for up to six (6) months, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to

comply with, any provision of this ordinance shall constitute a separate and distinct offense. (Ord. 7227)

6-214

REGULATIONS.

The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his or her office and which are not inconsistent with the provisions of this ordinance. (Ord. 7227)

6-215

SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. (Ord. 7227)

ARTICLE 3. BUSINESS REGULATIONS FOR SEXUALLY ORIENTED ENTERTAINMENT BUSINESSES

6-301

DEFINITIONS.

For the purpose of this Article, and unless the context otherwise requires, the following definitions are adopted:

"Employee" means any and all persons, including managers, servers, and entertainers who work in or at or render services directly related to, the operation of a sexually oriented entertainment business.

"Entertainer" means any person who provides sexually oriented entertainment within a sexually oriented entertainment business as defined in this section, whether or not a fee is charged or accepted for entertainment.

"Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving sexually oriented entertainment business occurring at any sexually oriented entertainment premises.

"Operator" means any person operating, conducting or maintaining a sexually oriented entertainment business.

"Patron" means any person attending, viewing the performance of an entertainer, purchasing or consuming food or drink, or otherwise entering a sexually oriented business, regardless of whether a fee or charge was exacted.

"Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of person however organized.

"Premises" means the physical location of a sexually oriented entertainment business, including all private property under ownership, lease or right of access by the owner of sexually oriented entertainment business adjacent to the primary business location, including private parking lots and entrance areas.

"Server" means any person who serves food or drink at a sexually oriented entertainment business.

"Sexually Oriented Entertainment" means any live exhibition, performance, display or dance of any type, including but not limited to talking; singing; reading; listening; posing; serving food or beverages; soliciting for the sale of food;

beverages or entertainment; pantomiming; modeling; removal of clothing; or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of specified anatomical areas. Sexually oriented entertainment is sometimes hereinafter referred to as "SOE".

"Sexually Oriented Entertainment Business" means any premises to which the public, patrons or members are invited or admitted on a continuing business basis and wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron, an employee, or a member. A sexually oriented entertainment business is sometimes hereinafter referred to as an "SOE business."

"Specified anatomical areas" means uncovered or exposed human genitals, pubic region, vulva, pubic hair, anus, female breast or breasts below a point immediately above the top of the areola or nipple, or the human male genitals in a discernible erect state, even if completely and opaquely covered.

"Specified sexual activities" means sexual conduct, being actual or simulated; acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, anus, or the breast of a female; or any sadomasochistic abuse or acts including the use of animals or any latent objects, in an act of apparent sexual stimulation or gratification. (Ord. 6454)

6-302

LICENSE REQUIRED FOR SEXUALLY ORIENTED ENTERTAINMENT BUSINESS.

- (A) It shall be unlawful for any person to operate or maintain a SOE Business in the City unless the owner, operator or lessee has obtained a SOE Business license from the City, or operates such business after such license has been revoked or suspended by the City.
- (B) It shall be unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed SOE business.
- (C) It shall be prima facie evidence that any SOE business that fails to have posted, in the manner required by this section, a SOE business license, has not obtained a license or such license has been revoked or suspended by the City.

In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in a SOE business in which an SOE license is not posted, in the manner required by this Article, had knowledge that such business was not licensed. (Ord. 6454)

6-303

LICENSE REQUIRED FOR MANAGERS AND ENTERTAINERS.

It shall be unlawful for any person to work as an entertainer or manager at a SOE Business without first obtaining a license to do so pursuant to this Chapter, or to work as an entertainer or manager at a SOE business after such person's license to do so has been revoked or suspended. All managers and entertainers shall be a minimum of eighteen (18) years of age. All managers and entertainers shall be employees of the owner. (Ord. 6454)

6-304

LICENSE, CLASSIFICATION AND FEES.

- (A) The license year for all fees required under this Article shall be from each January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated in this section. Fees for a partial year shall be pro-rated on a monthly basis. No application shall be considered complete until such fee is paid.
- (B) All licenses shall be issued for a specific location and shall be nonrefundable, nontransferable, and nonassignable.
- (C) The classification of licenses and fees for each year shall be as follows:
 - (1) SOE business license fee is \$500.00 per year;
 - (2) SOE manager's license fee is \$50.00 per year;
 - (3) SOE entertainer's license fee is \$50.00 per year.

Such fees shall be in addition to fees charged by the City of Lawrence Police Department pursuant to the City Code for fingerprinting and photographing applicants as required by this Article. (Ord. 6454)

6-305

SOE BUSINESS LICENSE.

All persons desiring to secure a license to operate a SOE business under the provisions of this Article shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the SOE business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

- (A) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant. If a corporation or partnership the federal tax identification number shall be supplied. The Kansas retail sales tax number shall be supplied.
- (B) The name of the SOE business, a description of the SOE to be performed on the premises, and the name of the owner of the premises where the SOE business will be located. If the property is leased or rented, the applicant shall supply a copy of the lease or rental agreement. The applicant shall supply a site plan of the building or building(s).
- (C) The names, residence addressees, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10% or greater interest in the corporation.
- (D) The addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application.
- (E) A statement from the applicant, or from all partners, or from all corporate officers and directors whether any such person or entity, in previously operating in this or any other city, county or state, has had a business license of any type revoked or suspended, and if so, the reason for the

suspension or revocation and the business activity subjected to the suspension or revocation.

- (F) A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.
- (G) A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - (1) A felony criminal act within five years immediately preceding the application, or
 - (2) A misdemeanor criminal act within five years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code or other state statutes of similar applicability, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other state statutes of similar applicability or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

- (H) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.
- (I) If the applicant is a corporation, a current certificate of registration issued by the Kansas Secretary of State. If the applicant is a foreign corporation, a certified copy of the registration as a foreign corporation.
- (J) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating SOE businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed. (Ord. 6454)

6-306

SOE MANAGER AND ENTERTAINERS LICENSE.

All persons desiring to secure a license under the provisions of this Article to be an SOE manager or entertainer shall make a verified application to the City Clerk. All applications shall be submitted in the name of the person proposing to be a SOE manager or entertainer. All applications shall be submitted on a form supplied by

the City Clerk and shall require the following information:

- (A) The applicant's name, residence address, residence telephone number, date and place of birth, and social security number.
- (B) The name and address of each SOE business where the applicant intends to work as a manager or entertainer, and an "intent to hire" statement from a SOE business that is licensed, or that has applied for a license, under the provisions of this Article, indicating the SOE business intends to hire the applicant to manage or entertain on the premises.
- (C) A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - (1) A felony criminal act within five years immediately preceding the application, or
 - (2) A misdemeanor criminal act within five years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

- (D) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.
- (E) The applicant shall present to the City Clerk for copying a document that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - (1) A motor vehicle operator's license issued by the state or other competent jurisdiction, bearing the applicant's photograph and date of birth;
 - (2) A state-issued identification card bearing the applicant's photograph and date of birth;
 - (3) An official and valid passport issued by the United States of America;
 - (4) An immigration card issued by the United States of America;

Failure to provide the information required by this Article shall constitute an incomplete application and shall not be processed. (Ord. 6454)

6-307

APPLICATION PROCESSING.

Upon receipt of a complete application for a SOE business license or a SOE manager or entertainer license, the City Clerk shall immediately transmit one copy of the verified application to the Chief of Police for investigation of the application. In addition, the City Clerk shall immediately transmit a verified copy of the application to the directors of the departments of Neighborhood Resources, Fire, and Planning.

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 applied for. 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 directors of Neighborhood Resources, Fire, and Planning to determine whether the structure where the SOE business will be conducted complies with the requirements and meets the standards of the applicable zoning, building code and fire Code provisions. The department directors 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. (Ord. 6454)

6-308

EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL.

If the application for a SOE business, SOE manager or entertainer is in proper form and accompanied by the appropriate license fee, the City Clerk shall issue the license as provided by law, provided a license shall not be issued to any person ineligible pursuant to Section 6-309:310. The City Clerk shall either approve or disapprove a license application within fifteen (15) working days from the date the application is received by the City Clerk. Failure to approve or disapprove shall not mean approval if a valid reason exists for not making the determination in a timely manner.

The license shall state this it is not transferable to other persons or locations and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

If the application for a license is disapproved, the applicant shall be immediately notified by mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law. (Ord. 6454)

6-309

SOE BUSINESS LICENSE - INELIGIBILITY AND DISQUALIFICATION.

A SOE business license shall not be issued if any one of the following conditions is met:

- (A) The applicant's premises is located within one thousand (1000) feet of any school, church or bona fide religious assembly location, child care center licensed by the Kansas Department of Health and Environment, city park, property zoned Residential District or Residence-Office District pursuant to Chapter 20 of the City Code. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's premises to the nearest point on the property line of such school, church or bona fide religious assembly location, licensed child care center, city park, or property zoned residential or residence-office district;

- (B) The applicant's premises is located within one thousand (1000) feet of any other SOE business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's premises to the nearest point on the property line of such other SOE business;
- (C) The applicant's premises is located within one thousand (1000) feet of any business licensed by the City to sell 1) alcoholic liquor or cereal malt beverages for consumption on the premises of the alcoholic liquor or cereal malt beverage establishment, or 2) alcoholic liquor or cereal malt beverages in the original package for consumption off of and away from the premises. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's premises to the nearest point on the property line of such other SOE business;
- (D) The applicant failed to supply all of the information required on the application;
- (E) The applicant gave materially false, fraudulent or untruthful information on the application;
- (F) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance provisions of the City Code;
- (G) The applicant has been convicted; released from incarceration for conviction, or diverted on any of the crimes set forth in 6-305 during the time period set forth in said section;
- (H) The applicant has had a SOE license revoked or suspended in this or any other jurisdiction during the past five (5) years. (Ord. 6454)

6-310

SOE MANAGER OR ENTERTAINER LICENSE -- INELIGIBILITY AND DISQUALIFICATION.

No person is eligible nor shall a license be issued to an applicant for a SOE manager, server or entertainer if one or more of the following conditions exist:

- (A) The employer for whom the applicant intends to work does not have or is ineligible to receive a SOE business license for any of the reasons stated in 6-309.
- (B) The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in 6-306 during the time period set forth in such section;
- (C) The applicant failed to provide all of the information required on the application;
- (D) The applicant gave materially false, fraudulent or untruthful information on the application;
- (E) The applicant has had a SOE manager or entertainer license revoked or suspended in this or any other city during the past five (5) years. (Ord. 6454)

STANDARDS OF CONDUCT.

It shall be unlawful for any licensee, owner, manager, entertainer and patrons of a SOE business, while on or about the premises of the business to fail to comply with the following standards of conduct:

- (A) Age Restriction. Only persons eighteen (18) years of age or older shall be permitted on the premises of a SOE business. The manager or manager's representative shall verify the age by one of the following methods:
- (1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - (2) A state-issued identification card bearing the applicant's photograph and date of birth;
 - (3) An official and valid passport issued by the United States of America;
 - (4) An immigration card issued by the United States of America.

Failure to verify the age of patron shall be considered a violation of this Article.

- (B) Exterior Observation. The premises of the all SOE businesses shall be constructed to include a partition or other physical barrier on all customer entrances that will ensure that observation of the interior of the business is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with a partition or other physical barrier shall be covered so as to prevent observation of the interior of the premises from the exterior of the building. No SOE business shall be conducted in a manner that permits the observation of live entertainers, servers, or employees from the exterior of the building.
- (C) Exterior Signs. The SOE business shall not be permitted to display a sign advertising the sale, consumption, or possession of alcoholic liquor or cereal malt beverages on the premises. The SOE business shall only be permitted to install one (1) wall sign, pursuant to the City Sign Code provisions, that shall not exceed the size of ten (10) percent of the wall to which it is attached. The wall sign shall not display or depict "specified sexual activities" or "specified anatomical areas."
- (D) Nudity prohibited, exceptions.
- (1) No employee, server, entertainer or patron in a SOE business shall appear in any fashion that exposes to view any specified anatomical area, provided,
 - (2) Persons licensed as adult entertainers are not subject to the restrictions of (d) (1), if the following conditions are met:
 - (a) The SOE entertainer is performing solely on a stage or platform raised at least eighteen (18) inches above the primary level of the customer floor level and such stage is separated from patrons by a solid physical barrier at least

thirty (30) inches in height and five (5) feet in distance from the stage. The effect of the barrier shall be to keep patrons a minimum of five (5) feet from the stage and the entertainer performing on the stage.

- (b) Patrons are prohibited from being on any portion of the stage. Patrons are prohibited from touching the entertainer while the entertainer is on the stage.
- (c) There is a sign clearly posted and observable by patrons viewing the SOE entertainer that states: "Patrons are prohibited from being upon any portion of the stage and are prohibited from touching the entertainer while the entertainer is on the stage."

Once the SOE entertainer leaves the stage or platform, he or she is subject to the restrictions concerning nudity stated herein.

(E) Certain acts prohibited

- (1) No employee, server or entertainer shall perform any specified sexual activities as defined in this Article, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined in this Article, or participate in any act of prostitution.
- (2) No employee, server, entertainer or patron of a SOE business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed. Touch shall mean, "to put the hand, finger, or some other part of the body on, so as to feel."
- (3) No employee, server or entertainer of a SOE business shall be visible from the exterior of the SOE business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
- (4) No SOE entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this Article and no SOE entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:
 - (a) While such entertainer is on the stage a patron may place such payment or gratuity into a box affixed to the stage barrier as required by 6-311 (d) (2), or
 - (b) While such entertainer is not on the stage and is clothed so as to not expose to view any specified Anatomical area, a patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.

- (5) No owner, operator, manager or other person in charge of the premises of a SOE business shall:
- (a) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises,
 - (b) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises,
 - (c) Knowingly allow or permit any person under the age of eighteen (18) years of age to be in or upon the premises,
 - (d) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, or
 - (e) Knowingly allow or permit a violation of this Article, other City of Lawrence City Code provisions, or state law.
 - (f) Hours of operation. No sexually oriented entertainment business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. Only employees of the SOE business shall be permitted in or upon the premises of the business between the hours of 2:00 a.m. and 9:00 a.m.
 - (g) Closed booths or rooms prohibited. Every SOE business shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein sexually-oriented entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever.
 - (h) Alcohol Prohibited. No employee, patron, manager, entertainer, owner or other person, shall consume or possess any alcoholic liquor or cereal malt beverage in a SOE business or premises.

An SOE business shall not share a common interior entrance or access area with a business licensed by the City to sell alcoholic liquor or cereal malt beverages. The owner and manager of the SOE shall report all known violations of consumption or possession of alcoholic beverages or cereal malt beverages in the SOE business, premises or private parking facility to the Lawrence Police Department in a timely manner.
 - (i) Intoxicated Persons Not Allowed Admittance. The manager shall not knowingly allow the admittance into a SOE business of a person who is physically or mentally incapacitated by the consumption of alcoholic liquor or cereal malt beverages.
 - (j) Lighting required -- Interior and Exterior. The interior

premises of a SOE business shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in the interior premises. The exterior premises, including any private parking area owned, leased or with a right of access by the SOE business shall be equipped with adequate lighting pursuant to the Zoning Code provisions of the City Code. (Ord. 6454)

6-312

OWNER RESPONSIBILITY.

Every act or omission by an employee of a SOE business constituting a violation of the provisions of this Article shall be deemed the act or omission of the owner if such act or omission occurs either with the authorization, knowledge, or approval of the owner, or as a result of the owner's negligent failure to supervise the employee's conduct, and the owner shall be punishable for such act or omission in the same manner as if the owner committed the act or caused the omission. The owner shall be responsible for the conduct of all employees while on the premises and any act or omission of any employee while on the premises constituting a violation of the provisions of this Article shall be deemed the act or omission of the owner for purposes of determining whether the owner's license shall be revoked, suspended or renewed. (Ord. 6454)

6-313

LICENSE - POSTING AND DISPLAY.

Every person, corporation, partnership, or association licensed under this Article as a SOE business shall post the license in a conspicuous place on the premises. Every person holding a SOE manager, server, or entertainer license shall post his or her license in a conspicuous place on the premises so that it shall be readily available for inspection by City authorities responsible for the enforcement of this Article. (Ord. 6454)

6-314

MANAGER ON PREMISES.

A SOE manager shall be on duty at a SOE business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours. (Ord. 6454)

6-315

INSPECTORS AND INSPECTIONS.

All SOE businesses shall permit representatives of the police department or any other City official acting in their official capacity to inspect the premises as necessary to ensure the business is complying with all applicable regulations and laws. (Ord. 6454)

6-316

SUSPENSION OR REVOCATION OF LICENSE.

Whenever the City Clerk has information that:

- (A) The owner or operator of a SOE business or a holder of a SOE manager, server or entertainer has violated, or knowingly allowed or permitted the violation of any of the provisions of this Article; or
- (B) The SOE license or SOE manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or
- (C) The SOE licensee or the SOE manager, server or entertainer licensee

failed to make a complete disclosure of all information in the application for such license, or renewal thereof, or

- (D) The owner or operator, or any partner, or any corporate officer or director holding a SOE business license has become disqualified from having a license by a conviction as provided in 6-309; or
- (E) The holder of a SOE manager, server or entertainer license has become disqualified from having a license by a conviction as provided in 6-310;

The City Clerk shall notify in writing, at the address provided in the application or subsequent amended address, by certified mail, the person holding the license that pending an opportunity for a hearing before the City Commission, the license shall be revoked. Such notification shall include the specific Code violation alleged. The person shall have ten (10) days from the mailing of the notice to request in writing a hearing before the City Commission on the pending revocation. Such hearing shall be scheduled at the next available City Commission meeting. Failure to request a hearing shall result in a revocation of the license by the City Clerk. Based upon the evidence produced at the hearing, the City Commission may take any of the following actions:

- (1) Suspend the license for up to ninety (90) days.
- (2) Revoke the license for the remainder of the license year.
- (3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the Article occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred the license will be revoked for the remainder of the license year. (Ord. 6454)

6-317

RENEWAL OF LICENSE.

A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31 of each calendar year. Upon timely application and review as provided for a new license, a license issued under the provisions of this Article shall be renewed by issuance of a license in the manner provided in this Article. (Ord. 6454)

6-318

JUDICIAL REVIEW.

An applicant, licensee, former licensee, or person aggrieved under the provisions of this Article, may seek judicial review in a manner provided by law. (Ord. 6454)

6-319

PENALTY.

It shall be unlawful for any person to violate any of the provisions of this Article. Upon conviction thereof, such person shall be fined not less than \$25.00, nor more than \$500.00, or be punished by incarceration for up to six months, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provisions of this Article, shall constitute a separate punishable offense. (Ord. 6454)

6-320

EXISTING SOE BUSINESSES AT THE TIME OF ADOPTION.

- (A) Upon the effective date of this Article, all existing SOE businesses, managers, and entertainers shall have thirty (30) days to make application

for licenses required by this Article.

- (B) The provisions of 6-309 (a), (b), and (c) shall not apply to SOE businesses in regular and continuous operation at the time of the effectiveness of this Article. (Ord. 6454)

6-321

SEVERABILITY OF THIS ARTICLE.

If any court of competent jurisdiction rules that any section, provision, or clause of this Article is invalid, it is the intent of the governing body that the remaining provisions of the Article be in full force and effect, and to this end the provisions of this Article should be interpreted as severable. (Ord. 6454)

ARTICLE 4. GOING-OUT-OF-BUSINESS

6-401

DEFINITIONS.

For the purpose of this Article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

- (A) City is the City of Lawrence.
- (B) City License Officer is the City Clerk.
- (C) Fire and other altered goods sale is a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.
- (D) Going-out-of-business sale is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales:
 - 1. Adjusters
 - 2. Adjustment
 - 3. Alteration
 - 4. Assignees
 - 5. Bankrupt
 - 6. Benefit of Administrators
 - 7. Benefit of Creditors
 - 8. Benefit of Trustees
 - 9. Building Coming Down
 - 10. Closing
 - 11. Creditors Committee
 - 12. Creditors
 - 13. End
 - 14. Executors
 - 15. Final Days
 - 16. Forced Out
 - 17. Forced Out of Business
 - 18. Insolvents
 - 19. Last Days
 - 20. Lease Expires
 - 21. Liquidation
 - 22. Loss of Lease
 - 23. Mortgage Sale
 - 24. Receivers
 - 25. Trustees
 - 26. Quitting Business
- (E) Goods are meant to include any goods, wares, merchandise or other property capable of being the object of a sale regulated hereunder.
- (F) Person is an individual, firm, partnership, association, corporation, company or organization of any kind.
- (G) Removal of business sale is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale

will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the City or will then continue business from other existing locations in the City. (Code 1979, 6-401)

6-402

LICENSE REQUIRED.

A license issued by the City license officer shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:

- (A) Going-out-of-business sale;
- (B) Removal of business sale; and
- (C) Fire and other altered stock sale. (Code 1979, 6-402)

6-403

APPLICATION OF REGULATIONS.

- (A) Provisions supplement general licensing ordinance. The provisions of this Article are intended to augment and be in addition to the provisions of the general licensing ordinance of this City. Where this Article imposes a greater restriction upon persons, premises, businesses, or practices than is imposed by the general licensing ordinance of this City, this Article shall control.
- (B) Established business requisite. Any person who has not been the owner of a business advertised or described in the application for a license hereunder for a period of at least six (6) months prior to the date of the proposed sale shall not be granted a license.
 - (1) Exception for survivors of businessmen. Upon the death of a person doing business in this City, his or her heirs, devisees or legatees shall have the right to apply at any time for a license hereunder.
- (C) Internal between sales. Any person who has held a sale as regulated hereunder, at the location stated in the application, within one (1) year last past from the date of such application shall not be granted a license.
- (D) Restricted location. Where a person applying for a license hereunder operates more than one place of business, the license issued shall apply only to the one store or branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.
- (E) Persons exempted. The provisions of this Article shall not apply to or affect the following persons:
 - (1) Persons acting pursuant to an order or process of a court of competent jurisdiction.
 - (2) Persons acting in accordance with their powers and duties as public officials.

- (3) Duly licensed auctioneers, selling at auction.
- (4) Any publisher of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this Article have not been complied with. (Ord. 4747, Sec. 6-403)

6-404

APPLICATION REQUIREMENTS.

- (A) Written information required. A person desiring to conduct a sale regulated by this Article shall make a written application to the license officer setting forth and containing the following information:
 - (1) The true name and address of the owner of the goods to be the object of the sale;
 - (2) The true name and address of the person from whom he purchases the goods to be sold and the price therefor, and if not purchased, the manner of such acquisition;
 - (3) A description of the place where such sale is to be held;
 - (4) The nature of the occupancy, whether by lease or sublease and the effective date of termination of such occupancy;
 - (5) The dates of the period of time in which the sale is to be conducted;
 - (6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;
 - (7) The means to be employed in advertising such sale together with the proposed content of an advertisement;
 - (8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Said inventory shall be attached to and become a part of the required application.
 - (a) Bona Fide Orders. All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
 - (b) Goods Purchased for Sale Hereunder. Such inventory shall not include goods ordered in contemplation of conducting a sale regulated hereunder. Any unusual purchase or additions to the stock of goods of the business hereby affected within 30 days before the filing of an application hereunder shall be deemed to be of such character.

6-405

LICENSE FEE.

Any applicant for a license or renewal license hereunder shall submit to the license officer the fee required by Section 6-108.16. (Code 1979, 6-404)

6-406

EFFECT OF LICENSE.

- (A) A license shall be issued hereunder on the following terms;
- (1) Licensing period. The license shall authorize the sale described in the application for a period of not more than thirty (30) consecutive days, Sundays and legal holidays excluded, following the issuance thereof.
 - (a) Renewal Procedure. The license officer shall renew a license for one period of time only, such period to be in addition to the thirty (30) days permitted in the original license and not to exceed sixty (60) consecutive days, Sundays and holidays excluded, when he finds:
 - (i) That facts exist justifying the license renewal;
 - (ii) That the licensee has filed an application for renewal;
 - (iii) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory. For the purpose of this subsection, any application for a license under the provisions of this Article covering any goods previously inventoried as required hereunder, shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.
 - (2) Nature of Sale. The license shall authorize only the sale of goods described in the inventory attached to the application.
 - (3) Saleable Goods. The license shall authorize only the sale of goods described in the inventory attached to the application.
 - (4) Surrender of General License. Upon being issued a license hereunder for a going-out-of-business sale, the licensee shall surrender to the license officer all other business licenses he may hold at the time applicable to the location and goods covered by the application for a license under this Article.
 - (5) Non-Transferability. Any license herein provided for shall not be assignable or transferable. (Code 1979, 6-405)

6-407

DUTIES OF LICENSEE.

- (A) A licensee hereunder shall:
- (1) Adhere to inventory. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.

- (2) Advertise properly. Refrain from employing any untrue, deceptive or misleading advertising.
- (3) Adhere to Advertising. Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.
- (4) Keep Duplicate Inventory. Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.
- (5) Segregate Noninventoried Goods. Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale appraising the public of the status of all such goods. (Code 1979, 6-406)

ARTICLE 5. PAWNBROKERS

6-501

PAWNBROKER DEFINED.

As used herein, a pawnbroker is any person who loans money on deposit of personal property, or deals in the purchase of personal property, on condition of selling the same back again at a stipulated price, or who makes a public display at his or her place of business of the sign generally used by pawnbrokers to denote their business, to-wit, three gilt or yellow balls, or who publicly exhibits any sign of money to loan on personal property. (Code 1979, 6-501)

6-502

LICENSING AND APPLICATION.

No person shall engage or continue in business as a pawnbroker without first obtaining a license therefor. Application for such license shall be in writing and shall state the full name and place of residence of the applicant; or if the applicant be a partnership, of each member thereof; or if a corporation or association, of each officer, shareholder or member thereof, together with the address of the place or places where the business is to be conducted and the hours of the day and days of the week during which the applicant proposes to engage in the business of pawnbroking at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license. Each applicant shall submit with his or her application:

- (A) A statement that he or she is the holder of a valid registration certificate issued by the Director of Revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made; and
- (B) A detailed inventory and description of all goods, wares, merchandise or other property held in pawn or for sale at the time of the application at each place of business stated therein, indicating whether the same was received in pawn or purchased as secondhand merchandise.
- (C) Any license issued pursuant to this section is eligible for renewal upon the following conditions:
 - (1) Payment of license fee;
 - (2) Current inventory. Certified by City Police Department or list of current inventory as certified by the City Police Department;

- (3) No history of any violation of this Article; and
- (4) Signed affidavit stating that all information in the original application is current. (Code 1979, 6-501; Ord. 5507)

6-503

QUALIFICATIONS.

No license or any renewal thereof shall be granted to:

- (A) Any person who is not a citizen of the United States;
- (B) Any person who has not been an actual resident of the State of Kansas for at least two (2) years immediately preceding the date of his or her application;
- (C) Any person who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, of the United States, or shall have forfeited his or her bond-to appear in court to answer charges for any such offense within the ten (10) years immediately prior to such person's application for a license;
- (D) Any person who has had his or her license revoked for cause under the provisions of this Article or any provision of state law relating to pawnbrokers;
- (E) Any person who is not at least twenty-one (21) years of age;
- (F) Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- (G) Any person who does not own the premises for which a license is sought, unless he or she has a written lease therefor for at least three-fourths (3/4) of the period for which the license is to be issued;
- (H) Any person whose spouse would be ineligible to receive a license hereunder for any reason other than age, citizenship, and residence requirements;
- (I) Any partnership, unless all of the partners shall be eligible to receive a license as an individual;
- (J) A corporation if any officer, manager, director or stockholder would be ineligible to receive a license as an individual. (Code 1979, 6-503)

6-504

POSTING OF LICENSE.

A license issued in accordance with Section 6-108.13 shall be obtained for each place of business and such license shall be conspicuously posted in the place of business. (Code 1979, 6-504)

6-505

CHANGE IN LOCATION OF PLACE OF BUSINESS; DUPLICATE LICENSE.

Whenever a licensee shall change his or her place of business to another location within the City, he or she shall immediately give written notice to the City Clerk, who shall then issue a duplicate license which shall show, in addition, the change in location and the date thereof. The old license shall be returned to the Clerk as soon as the change in location has taken place. (Code 1979, 6-505)

- 6-506 **REGISTER KEPT BY PAWNBROKERS.**
 Every pawnbroker shall keep at his or her place of business a clean and legible register in which he shall enter in writing a minute description of all property taken, purchased, or received, including any number that may be in or upon any article, together with the time and the name and place of residence (giving street and number if within the City) of the person leaving such property. The register shall also show the amount loaned, the interest charged, and the time when the loan falls due. The pawnbroker shall make such entries immediately upon the receipt or purchase of such property. Every entry shall be made in ink, and shall not in any manner be erased, obliterated or effaced. (Code 1979, 6-506)
- 6-507 **PAWNBROKER'S RECEIPTS.**
 Every pawnbroker shall give to any person negotiating or leaving property with him a plainly written or printed ticket, having upon it a full and perfect copy of all the entries required by this Article to be kept in the register. No charge shall be made for such copy. (Code 1979, 6-507)
- 6-508 **INSPECTION OF PAWNBROKER'S REGISTER AND ARTICLES.**
 The pawnbrokers register shall, at all times, be kept open to the inspection of the Chief of Police or Officers designated by him. Every pawnbroker shall, upon request of the Chief of Police or other Officers designated by him, show and exhibit to such officers for inspection any article or articles purchased, taken or reviewed by him, and books, accounts, records, files, safes, and vaults as provided by K.S.A. 16-712. (Code 1979, 6-508)
- 6-509 **ABSOLUTE PURCHASE: REGISTRY AND INSPECTION.**
 Every pawnbroker shall in the absolute purchase of any personal property, enter the same in the register in the same manner as property received on pledge, and shall, for five (5) days after such purchase, keep the same at his or her place of business subject to inspection by the Chief of Police or other Police Officers, as fully and to the same extent as goods received on pledge. (Code 1979, 6-509)
- 6-510 **PURCHASES PROHIBITED.**
 No pawnbroker or any person employed by or acting for him shall purchase, take or receive any article of property, of or from any intoxicated person, or any stolen property, or property which, from any cause, he may have reason to believe or suspect cannot be lawfully sold by the person offering it. It shall be unlawful for any pawnbroker or any person in any other kind of business which includes the purchasing of used personal property to purchase from any person, under the age of 18 years, any goods, wares, or merchandise of any kind or description. (Code 1979, 6-510)

ARTICLE 6. TAXICABS

- 6-601 **PURPOSE.**
 The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities, including the operation of Taxicab Businesses and Taxicabs. (Ord. 9092)
- 6-602 **DEFINITIONS.**
 The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 9092)
- (A) **“City Clerk”** shall, for the purposes of this Article, mean the City Clerk, the interim City Clerk, anyone fulfilling the duties of the City Clerk on either a

temporary or a permanent basis, or any designee of the City Clerk.

- (B) **"Taxicab"** shall, for the purposes of this Article, mean any motor vehicle used for the purpose of transporting passengers for hire.
- (C) **"Taxicab Business"** shall, for the purposes of this Article, mean any person, corporation, association, or other entity, however organized, granted a Taxicab Business Permit to operate a Taxicab or Taxicabs within the corporate limits of the City.

6-603

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE REQUIRED.

No person, corporation, association, or other entity, however organized, shall operate a Taxicab within the City limits without first obtaining from the City a Taxicab Business Permit and, for each motor vehicle operated as a Taxicab, a Taxicab License. (Ord. 9092)

6-604

TAXICAB BUSINESS PERMIT FEE; TAXICAB LICENSE FEE

(Ord. 9092)

- (A) The fee for a Taxicab Business Permit shall be \$100.00. The fee shall not be pro-rated or refunded for any reason, including denial of an application or revocation of a permit.
- (B) The fee for a Taxicab License shall be \$50.00 per motor vehicle licensed as a Taxicab. Each motor vehicle operated as a Taxicab must be licensed. The fee shall not be pro-rated or refunded for any reason, including denial of an application, revocation of a permit or license, loss or destruction of a Taxicab Business Permit or a Taxicab License, a change to the license plate number of a licensed Taxicab, or the demise or transfer of the motor vehicle so licensed.

6-605

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE APPLICATION.

Application for a Taxicab Business Permit and Taxicab License(s) shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the Taxicab Business Permit Fee and the applicable Taxicab License Fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information: (Ord. 9092)

- (A) The applicant's full legal name. If the applicant is not a natural person, the name of the applicant and the name of a principal or a registered agent of the applicant.
- (B) The applicant's business mailing address, telephone number, and e-mail address, if any. If the applicant is not a natural person, the mailing address, telephone number, and e-mail address of the applicant and any person named as principal or registered agent.
- (C) The year, make, model, vehicle identification number (VIN), seating capacity, and license plate number of each motor vehicle being licensed as a Taxicab.
- (D) Proof that the applicant owns each motor vehicle being licensed as a Taxicab (*e.g.*, a copy of the motor vehicle's title or state license registration).
- (E) A certificate of insurance establishing insurance in an amount not less than \$300,000.00 per occurrence, combined single limit for bodily injury and property damage for vehicles with a seating capacity of six (6) or fewer

passengers, and \$500,000.00 per occurrence, combined single limit for bodily injury and property damage for vehicles with a seating capacity of seven (7) or more passengers, and containing that information required by Section 6-612(b), *infra*.

- (F) A statement indicating whether or not the applicant has had a Taxicab Business Permit or Taxicab License revoked by the City within the preceding two (2) years.
- (G) A statement indicating whether or not the applicant has ever been convicted, under the laws of the State of Kansas or any other jurisdiction, of a felony, a crime involving dishonesty, a crime against a person, driving under the influence, or driving with a suspended driver's license.
- (H) A statement acknowledging that the applicant shall be solely responsible for any and all driver(s) placed in charge of any Taxicab operated by the applicant.
- (I) The applicant's signature and the date of the application.

6-606

TAXICAB BUSINESS PERMIT; DUTY TO CONDUCT A BACKGROUND CHECK ON ALL TAXICAB DRIVERS.

(Ord. 9092)

- (A) No Taxicab Business shall allow a licensed taxicab vehicle to be operated by any person without first conducting a background check on that person and filing the results of that background check with the City Clerk's Office.
- (B) No person who has been convicted, under the laws of the State of Kansas, or any other jurisdiction, of a felony, a crime of dishonesty, a crime against a person, driving under the influence, or driving with a suspended driver's license, within the preceding five (5) years, shall be permitted to drive or operate a Taxicab within the City.

6-607

TAXICAB BUSINESS PERMIT, TAXICAB LICENSE ISSUANCE; DENIAL.

(Ord. 9092)

- (A) The City Clerk shall review each application for a Taxicab Business Permit and Taxicab License and the City shall conduct a background check of each applicant. Within ten (10) business days of the application, the City Clerk shall approve the application and shall issue to the applicant a Taxicab Business Permit and Taxicab License(s), unless:
 - (1) The application is incomplete.
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
 - (3) The applicant has had a Taxicab Business Permit or Taxicab License revoked by the City for any reason within the preceding two (2) years.
 - (4) The applicant has been convicted, under the laws of the State of Kansas, or any other jurisdiction, of a felony, a crime of dishonesty, a crime against a person, driving under the influence, or driving with a suspended driver's license within the preceding five (5) years.

- (5) The applicant has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or any other jurisdiction.
- (B) If review of the application or the background check of the applicant discloses that any of the criteria of Section 6-606(a)(1) through (a)(5), inclusive, are met, then the City Clerk shall deny the application, by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant at the given address, shall inform the applicant of the reason for denial, and shall state that the applicant has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of the application to the Governing Body. The City Clerk shall maintain a copy of the Notice of Denial in his or her files and shall transmit a copy of the Notice of Denial to the Chief of Police.
- (C) Any applicant, whose application is denied for any reason, except for the filing of an incomplete application under Section 6-606(a)(1), is hereby prohibited from filing with the City Clerk an application for a Taxicab Business Permit and Taxicab License for a period of one year, commencing the date after Notice of Denial is given. An applicant, whose application is denied because it is incomplete, may file a subsequent application at any time during normal business hours.

6-608

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE APPEARANCE; DURATION.

(Ord. 9092)

- (A) The Taxicab Business Permit shall contain the seal of the City, the name of the person or entity holding the permit, a permit number, and the expiration date of the permit.
- (B) The Taxicab License shall contain the seal of the City, the name of the person or entity holding the Taxicab Business Permit and Taxicab License, the Taxicab Business Permit number, the Taxicab License number, the year, make, model, and license plate number of the Taxicab, the expiration date, and any additional information deemed necessary by the City.
- (C) All Taxicab Business Permits and Taxicab Licenses shall be valid for a period not to exceed one year and shall expire on December 31 of the year in which they are issued.

6-609

TAXICAB LICENSE DISPLAY.

The Taxicab License shall be prominently displayed in the interior of the motor vehicle licensed as a Taxicab, such that it shall be within plain view of any passenger, at all times that the motor vehicle is engaged as a Taxicab. (Ord. 9092)

6-610

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE NON-TRANSFERABLE.

No Taxicab Business Permit or Taxicab License issued in accordance with the provisions of this Article shall be used by any person or entity other than the person, corporation, association, or other entity, however organized, in whose name it was issued. (Ord. 9092)

6-611

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE RENEWAL.

(Ord. 9092)

- (A) In order to retain a Taxicab Business Permit and Taxicab License, the person or entity holding such permit and license(s) must renew said permit and license(s) on an annual basis. To renew a Taxicab Business Permit and Taxicab License, the Licensee must, BEFORE the expiration date of

that Taxicab Business Permit and Taxicab License remit to the City the appropriate Taxicab Business Permit Fee and Taxicab License Fee.

- (B) There shall be assessed a \$25.00 late fee for any Taxicab Business Permit and for any Taxicab License that is not renewed BEFORE the expiration date of said permit and said license(s) and the holder of said permit and license(s) seeks to renew said permit and license(s) after the expiration date.

6-612

LICENSING ADDITIONAL MOTOR VEHICLES AS TAXICABS.

Any Taxicab Business wishing to employ a motor vehicle as a Taxicab, that is not so licensed at the time of its original application, shall make application, on a form provided by the City Clerk for such purpose, to the City Clerk for a Taxicab License for that motor vehicle, providing the information required in Section 6-605, *supra*. (Ord. 9092)

6-113

TAXICAB MARKINGS AND DECAL

(Ord. 9092)

- (A) All Taxicabs shall be clearly marked with the name and phone number of the person or entity holding the Taxicab Business Permit and the Taxicab License.
- (B) The City Clerk shall issue to each licensed Taxicab a Taxicab Decal that displays the seal of the City, the Taxicab License number and expiration date, and the license plate number of the Taxicab. The Taxicab Decal shall be affixed to the driver's side lower corner of the rear window of the Taxicab, so that it is clearly visible from the exterior of the Taxicab and does not obstruct the Taxicab driver's vision.

6-614

INSURANCE; CERTIFICATE OF INSURANCE.

(Ord. 9092)

- (A) It shall be unlawful to operate a Taxicab Business or Taxicab within the City, unless the person or entity has in effect insurance coverage issued by a company authorized to transact insurance business in the State of Kansas. The insurance shall provide coverage for each Taxicab operated by the Taxicab Business in an amount not less than \$300,000.00 per occurrence, combined single limit for bodily injury and property damage for vehicles with a capacity of six (6) passengers or less, and \$500,000.00 per occurrence, combined single limit for bodily injury and property damage for vehicles with a capacity of seven (7) passengers or more. The insurance coverage required by this section shall insure the public against any loss or damage that may result to any person or property from the operation of all Taxicabs used by a Taxicab Business.
- (B) At the time of application, the applicant shall furnish the City Clerk with a certificate of insurance coverage as a prerequisite to obtaining a Taxicab Business Permit and Taxicab License(s). The certificate shall provide that the insurer will notify the City in writing of any policy cancellation and the notice shall be sent to the City Clerk by registered mail at least 30 days prior to cancellation of the policy. The certificate shall also state:
 - (i) The full name of the insurer.
 - (ii) The full legal name and address of the insured.
 - (iii) The insurance policy number.

- (iv) The type and limits of coverage.
- (v) The specific motor vehicles covered
- (vi) The effective dates of the certificate.
- (vii) The certificate issuance date.

6-615

TAXICAB ACCESSIBILITY

No Taxicab Business or person driving a Taxicab shall intentionally, knowingly, or negligently: (Ord. 9092)

- (A) Refuse to serve a person with a disability who can otherwise use a Taxicab.
- (B) Charge higher fares or fees for carrying individuals with disabilities and their equipment than those fares or fees charged to other persons.
- (C) Refuse to provide assistance with the stowing of mobility devices.
- (D) Refuse to allow service animals to ride with passengers with disabilities.

6-616

TAXIMETER REQUIRED; EXCEPTION; UNLAWFUL ACTS.

(Ord. 9092)

- (A) No Taxicab may be operated within the City unless equipped with a taximeter in good operating condition. No fare higher than that which is recorded on the taximeter shall be charged. Every taximeter shall be installed at the center of the dashboard or console of the Taxicab. The reading face of the taximeter shall, at all times, be well lighted and distinctly readable to the passengers within the Taxicab.
- (B) The provisions of subsection (a) shall not apply to any Taxicab, licensed under this Article, charging a flat rate fee.
- (C) It shall be unlawful to operate a Taxicab without an operable taximeter -- unless subsection (b) of this Section applies -- or with a taximeter that has been manipulated to increase the amount of time, the distance traveled, or the fee to be charged.

6-617

RATE CARD REQUIRED; CHANGE OF RATES.

(Ord. 9092)

- (A) No Taxicab may be operated within the City unless it prominently displays within the interior of the motor vehicle, in plain view of the passengers, a rate card setting forth the rates of fare for that Taxicab. The rate card shall set forth those rates on file with the City Clerk.
- (B) To amend its rates of fare, a Taxicab Business must file an amended application with the City Clerk setting forth the new fare to be charged. No amendment in rates shall be effective until the amended application has been on file with the City Clerk for a period of thirty (30) days and the amended rate is posted on the Rate Card within the interior of the Taxicab.

6-618

RECEIPT TO PASSENGER UPON REQUEST.

The driver or operator of any Taxicab licensed under this Article shall, upon request of a passenger, at the time of payment, furnish the passenger with a receipt. The receipt shall contain, in legible type or writing, the name of the holder of the Taxicab

Business Permit, a statement of all items for which charge is made, the total amount paid by the passenger, and the date of the payment. (Ord. 9092)

6-619

TAXICAB BUSINESS PERMIT AND TAXICAB LICENSE REVOCATION.

(Ord. 9092)

(A) The City Clerk may revoke any Taxicab Business Permit and Taxicab License issued under this Article for one or more of the following reasons:

- (1) Fraud, misrepresentation, or false statement contained in any application for a Taxicab Business Permit or any application for a Taxicab License;
- (2) Any violation of the provisions of this Article; or
- (3) Conducting a permitted or licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety, or welfare of the residents of the City.

(B) Notice of Revocation shall be in writing, shall be mailed to the permit holder or licensee, shall inform the permit holder or licensee of the reason for revocation, and shall state that the permit holder or licensee has fourteen (14) days from the date of the Notice of Revocation to appeal the revocation to the Governing Body. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files.

6-620

APPEAL.

Any person aggrieved by the action of the City Clerk in denying an application for a Taxicab Business Permit or Taxicab License or in revoking a Taxicab Business Permit or Taxicab License shall have the right to appeal that action to the Governing Body. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal must be in writing and must set forth why the applicant, permit holder, or licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the Governing Body shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant, permit holder, or licensee in the same manner as the Notice of Denial or the Notice of Revocation. The Governing Body's decision and order on such appeal shall be the final order of the City. (Ord. 9092)

6-621

MUNICIPAL OFFENSE.

Operating a Taxicab without a valid Taxicab Business Permit, operating a motor vehicle as a Taxicab without a Taxicab License, or any violation of the provisions of this Article shall be a municipal offense. Any person, upon an adjudication of guilt or the entry of a plea of no contest, shall be subject to a fine of a minimum of \$500.00 and a maximum of \$1,000.00. (Ord. 9092)

6-622

EXEMPTIONS.

The provisions of this Article shall not apply to the following: (Ord. 9092)

- (A) Motor vehicle carriers operating between fixed points within the City, including the Lawrence Transit System.
- (B) Motor vehicle carriers operating between points located within the City and points located outside the City.
- (C) Motor vehicle carriers operating between points located outside the City,

whose route lies in or through the City.

- (D) Motor vehicles operated by any entity awarded operating funds by the Federal Transit Administration (FTA) or the Kansas Department of Transportation (KDOT) for the provision of urban, rural, or paratransit and human services transportation within the City.
- (E) Motor vehicles funded by the Federal Transit Administration (FTA) or the Kansas Department of Transportation (KDOT) for the provision of urban, rural, or paratransit and human services transportation within the City.
- (F) Motor vehicles operated or motor vehicle carriers sanctioned by a public university and funded, at least in part, by student fees.
- (G) Motor vehicles operated by any transportation network company driver in behalf of any transportation network company, as those terms are defined by the Kansas Transportation Network Company Services Act of 2015, as codified and as amended.

ARTICLE 7. TRADING STAMPS

6-701

TRADING STAMPS; UNLAWFUL.

It shall be unlawful for any person to use, issue or distribute, or for any person to furnish to any other person to use, issue or distribute, in, with or for the sale of food, goods, wares or merchandise, any stamps, coupons, tickets, certificates, cards or other similar devices or services, which shall entitle the purchaser receiving the same with the sale of food goods, wares, merchandise or services to procure from any person, anything of value upon the production of any number of such stamps, coupons, tickets, certificates, cards or other similar devices. It shall be unlawful for any person, to redeem any stamps, coupons, tickets, certificates, cards or other similar devices, the use, issuance, distribution or furnishing of which is made unlawful by preceding provisions of this Section. (Code 1979, 6-701)

6-702

EXCEPTIONS.

This Article shall not apply to the use, issuance, distribution, furnishing or redemption of any coupon, ticket, certificate, card or similar device which is issued, distributed, furnished or redeemed by a manufacturer, or packer, in connection with the sale of its manufactured or packed products, when such coupon, ticket, certificate, card or other similar device is redeemable, without or with accompanying cash not exceeding five dollars (\$5.00) for any product of said manufacturer or packer or for one specified and particular product not manufactured or packed by said manufacturer or packer. (Code 1979, 6-702)

ARTICLE 8. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

6-801

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities, including those of Peddlers, Solicitors, and Transient Merchants. (Ord. 8664)

6-802

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall have the

following meanings, except where the context clearly indicates otherwise: . (Ord. 8664)

- (a) **“Chief of Police,”** for the purposes of this Article, shall mean the Chief of the City of Lawrence, Kansas, Police Department, any interim Chief of Police, any acting Chief of Police, or any designee of the Chief of Police.
- (b) **“City Clerk,”** for the purposes of this Article, shall mean the City Clerk, the interim City Clerk, any acting City Clerk, anyone fulfilling the duties of the City Clerk on either a temporary or a permanent basis, or any designee of the City Clerk.
- (c) **“Peddler”** shall mean any person, traveling by foot, or by any other means of conveyance, from place to place, from street to street, or from residence to residence, transporting any goods, wares, merchandise, foods, or other items, and exposing and offering the same for sale, or who, without traveling from place to place, shall from a wagon, automotive vehicle, or other form of conveyance expose and offer any goods, wares, merchandise, foods, or other items for sale.
- (d) **“Residence”** shall mean any separate living unit contained within any type of building or structure that is occupied for residential purposes by one or more persons.
- (e) **“Solicitor”** shall mean any person, traveling by foot, or by any other means of conveyance, from place to place, from street to street, or from residence to residence, taking or attempting to take orders for the sale of goods, wares, merchandise, foods, or other items for future delivery, whether or not that person has, carries, or exposes for sale any samples of the subject offered for sale or whether or not he or she is collecting advanced payment for any such sale. Any person who hires, leases, or occupies any building, structure, or any portion thereof, or any other place within the corporate limits of the City, for the sole purpose of exhibiting samples of goods, wares, merchandise, foods or other items and taking orders for those items for future delivery shall be deemed a Solicitor for the purposes of this Article. Also, any person using either of the two means described above to solicit the sale of services for immediate or future performance shall be deemed a Solicitor for the purposes of this Article.
- (f) **“Transient Merchant”** shall mean any person who engages in a temporary business, selling and delivering goods, wares, merchandise, foods, or other items, and who, in furtherance of such purpose, hires, leases, or occupies any building, structure, motor vehicle, hotel room, public room, apartment, shop, street, or alleyway within the corporate limits of the City, for the exhibition and sale of such goods, wares, merchandise, foods, or other items, whether privately or at public auction. Any person who aligns himself or herself temporarily with a local business, dealer, trader, merchant, or auctioneer for the purpose of selling and delivering such goods, wares, merchandise, foods, or other items shall also be deemed a Transient Merchant for the purposes of this Article.

6-803

SOLICITOR’S LICENSE REQUIRED.

No person shall act within the corporate limits of the City as a Peddler, Solicitor, or Transient Merchant without first obtaining a valid Solicitor’s License. . (Ord. 8664)

6-804

SOLICITOR’S LICENSE FEE.

The application fee for a Solicitor's License is \$250.00. The application fee is not pro-rated or refundable for any reason, including denial of an application or revocation of a license. (Ord. 8664, Ord. 8843)

6-805

SOLICITOR'S LICENSE APPLICATION.

Application for a Solicitor's License shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the Solicitor's License Fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information: . (Ord. 8664)

- (a) The applicant's full legal name, date of birth, place of birth, and Social Security Number.
- (b) The applicant's permanent address, business mailing address, and telephone number. If the applicant's permanent address is outside the State of Kansas, a local contact address must also be provided.
- (c) A copy of the applicant's government-issued photo identification.
- (d) If the applicant is employed by, is affiliated with, or represents another, then the applicant shall provide a permanent address, business mailing address, and a telephone number for the person, firm, corporation, partnership, or association, by whom he or she is employed, with whom he or she is affiliated, or whom he or she represents.
- (e) The applicant's valid Kansas sales tax number.
- (f) A brief description of the licensed activity, including the nature of the applicant's business and the goods or services being offered for sale.
- (g) The location and zoning of any structure, building, or vehicle to be used in the course of the licensed activity.
- (h) The description of any and all vehicles, including license plate numbers, to be used in the course of the licensed activity.
- (i) A statement indicating whether or not the applicant has had a Solicitor's License, or any similar permit or license related to one or more of the activities licensed by this Article, revoked in this or any other jurisdiction within the preceding two (2) years.
- (j) A statement indicating whether or not the applicant has ever been convicted, under the laws of the State of Kansas or of any other jurisdiction, of a felony or of a crime involving dishonesty.
- (k) A photograph of the applicant taken by City staff.
- (l) The applicant's signature.

6-806

SOLICITOR'S LICENSE ISSUANCE; DENIAL.

(Ord. 8664)

- (a) The City Clerk shall review each application and shall forward a copy of each application to the Chief of Police to conduct a background check of the applicant. Within five (5) business days of the application, the City Clerk shall approve the application and shall issue to the applicant a Solicitor's License, unless:

- (1) The application is incomplete;
 - (2) The application is determined to be fraudulent, to include a misrepresentation, or to contain a false statement;
 - (3) The applicant has had a Solicitor's License revoked by the City for any reason within the preceding two (2) years;
 - (4) The applicant has engaged in any conduct during the preceding ninety (90) days that would have been grounds for license revocation under this Article had the applicant then been in possession of a Solicitors License;
 - (5) The applicant has been convicted, under the laws of the State of Kansas or of any other jurisdiction, of a felony or of a crime involving dishonesty within the preceding five (5) years; or
 - (6) The applicant has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or from any other jurisdiction.
- (b) If review of the application or the background check of the applicant discloses that any of the criteria of Section 6-805(a)(1) through (a)(6), inclusive, are met, then the City Clerk shall deny the application, by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the applicant of the reason for denial, and shall inform the applicant that he or she has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of his or her application to the Governing Body. The City Clerk shall maintain a copy of the Notice of Denial in his or her files and shall transmit a copy of the Notice of Denial to the Chief of Police.
- (c) Any applicant, whose application is denied for any reason, except for the filing of an incomplete application under Section 6-805(a)(1), is hereby prohibited from filing with the City Clerk an application for a Solicitor's License for ninety (90) days, commencing the date after Notice of Denial is given. An applicant, whose application is denied because it is incomplete, may file a subsequent application at any time during normal business hours.

6-807

SOLICITOR'S LICENSE APPEARANCE; DURATION.

(Ord. 8664)

- (a) The Solicitor's License shall contain the seal of the City, a photograph of the licensee, the name and employer of the licensee, and the expiration date of the license.
- (b) A Solicitor's License for Peddlers and Solicitors shall be valid for a period not to exceed one year and shall expire on December 31 of the year in which it is issued. A Solicitor's License for Transient Merchants is valid for five (5) days, including the day that it is issued.

6-808

SOLICITOR'S LICENSE NON-TRANSFERABLE.

No Solicitor's License issued in accordance with the provisions of this Article shall be used by any person other than the person to whom it was issued. . (Ord. 8664)

6-809

SOLICITOR'S LICENSE POSSESSION; DISPLAYING LICENSE.

(Ord. 8664)

- (a) Peddlers, Solicitors, and Transient Merchants shall carry their Solicitor's License on their person at all times that they are engaged in any of the activities licensed by this Article.
- (b) Peddlers, Solicitors, and Transient Merchant shall prominently display their Solicitor's License such that it is visible at all times that they are engaged in any of the activities licensed by this Article.

6-810

SOLICITOR'S LICENSE RESTRICTIONS.

(Ord. 8664)

- (a) No Peddler, Solicitor, or Transient Merchant shall engage in any activity licensed by this Article within any residential zoning district between the hours of 8:00 p.m. and 9:00 a.m.
- (b) No Peddler, Solicitor, or Transient Merchant shall engage or attempt to engage in any activity licensed by this Article at any Residence or business within the corporate limits of the City that prominently displays a "No Solicitors" or "No Trespassers" sign, or any other similar sign that communicates the occupants' desire not to be contacted by Peddlers, Solicitors, or Transient Merchants.

6-811

SOLICITOR'S LICENSE REVOCATION.

(Ord. 8664)

- (a) The Chief of Police or the City Clerk may revoke any Solicitor's License issued under this Article for one or more of the following reasons:
 - (1) Fraud, misrepresentation, or false statement contained in the application for Solicitor's License;
 - (2) Any violation of the provisions of this Article;
 - (3) Conducting a licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety, or welfare of the residents of the City;
 - (4) Unauthorized use of a public right of way for the sale or display of merchandise or services, or for the display of any advertising sign; or
 - (5) Violation of a site plan requirement for an existing land use or for any other violation of Chapter 20 of the City Code.
- (b) Notice of Revocation shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the licensee of the reason for revocation, and shall inform the licensee that he or she has fourteen (14) days from the date of the Notice of Revocation to appeal the revocation to the Governing Body. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files and shall transmit a copy of the Notice of Revocation to the Chief of Police.

6-812

SOLICITOR'S LICENSE APPEAL.

Any person aggrieved by the action of the City Clerk or the Chief of Police in denying an application for a Solicitor's License or in revoking a Solicitor's License shall have the right to appeal that action to the Governing Body. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal

must be in writing and must set forth why the applicant or the licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the Governing Body shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant or licensee in the same manner as the Notice of Denial or the Notice of Revocation. The Governing Body's decision and order on such appeal shall be the final order of the City. . (Ord. 8664)

6-813

SOLICITOR'S LICENSE UNLAWFUL ACTIONS.

(Ord. 8664)

- (a) It shall be unlawful for any person to act within the corporate limits of the City as a Peddler, Solicitor, or Transient Merchant without first obtaining and possessing a valid Solicitor's License.
- (b) It shall be unlawful for any person to violate any of the provisions of Sections 6-807, 6-808, and 6-809 of this Article.
- (c) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant, or any person acting in his or her behalf, to shout, to make an outcry, to blow a horn, to ring a bell, or to use any sound device, including any loud-speaking radio or sound amplifying system upon any of the streets, alleys, parks, or other public places of the City or upon any private premises in the City where said sound is capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, merchandise, foods, or other items, or any services, which are to be sold.
- (d) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to erect or cause to be erected any temporary structure, awning, tent, or stand for the purpose of storing, selling, displaying, exposing, or offering goods or services for sale unless the Peddler, Solicitor, or Transient Merchant complies with all requirements of Article 15 of this Chapter.
- (e) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to conduct his or her activities on any unimproved surface or from any unoccupied or vacant lot within the corporate limits of the City.
- (f) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to conduct his or her activities in any parking lot that constitutes a required parking area under the City Code unless the Peddler, Solicitor, or Transient Merchant complies with all requirements of Article 15 of this Chapter.
- (g) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to conduct his or her activities in violation of any setback requirements in the zoning district in which the activity is being conducted.
- (h) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to have more than one sign at any one location and any sign shall not exceed nine (9) square feet in total area, including lettering or designs painted or attached to any vehicle.
- (i) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to sell any goods or services directly from any vehicle exceeding three-fourths (3/4) ton in rated load capacity.
- (j) It shall be unlawful for any Peddler, Solicitor, or Transient Merchant to claim exclusive right to any location in a public right of way, to have a stationary

location in a public right of way, or to conduct his or her activities in a congested area where his or her operations may impede or inconvenience the travelling public.

6-814

SOLICITOR'S LICENSE MUNICIPAL OFFENSE.

Engaging in any of the unlawful acts set forth in Section 6-813 of this Article shall be a municipal offense. Any person violating a provision of Section 6-813 of this Article shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a fine of a minimum of \$250.00 and a maximum of \$1,000.00. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine. (Ord. 8664)

6-815

SOLICITOR'S LICENSE EXEMPTIONS.

The provisions of this Article shall not apply to the following activities: (Ord. 8664)

- (a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of their business.
- (b) Wholesale trade shows or conventions.
- (c) Fairs and convention center activities conducted primarily for amusement or entertainment.
- (d) Any general fair, auction, or bazaar sponsored by any church, religious, or not-for-profit organization.
- (e) Garage sales held on premises devoted to residential use.
- (f) Sales of agricultural goods raised or produced by the seller and sold at an approved Farmer's Market.
- (g) Any fairs, auctions, bazaars, or sales sponsored by any school, including the sale of concessions at any school event.
- (h) Promotional trade or hobby shows conducted within structures that are zoned and site-planned for commercial use in accordance with Chapter 20 of the City Code.
- (i) Sidewalk Sales permitted under Article 19 of this Chapter. (Ord. 8754)
- (j) Any fairs, auctions, bazaars, sales, or other events for which valid Temporary Special Event Permits have been issued by the City Commission or the Department of Planning and Development Services;
- (k) Any fairs, auctions, bazaars, sales, or other events held at the Douglas County Fairgrounds.
- (l) Any fairs, auctions, bazaars, sales, or other events held on university campuses.
- (m) Mobile Food Vendors licensed under Article 17 of this Chapter.
- (n) Temporary stores located in properly site-planned and zoned locations.

6-816

SEVERABILITY.

If any section, clause, sentence, or phrase of this article is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this article. (Ord. 8664)

ARTICLE 9. REMOVAL OF SERIAL NUMBERS

6-901

SERIAL NUMBERS; REMOVING, ALTERING.

No person shall destroy, remove, cover, conceal, alter, deface or cause to be destroyed, removed, covered, concealed, altered or defaced, the manufacturer's original number, or serial number or other distinguishing number or mark on any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article which bears a serial number attached by the manufacturer, with the intent to disguise such property when the person knows or has reason to know such property is stolen. Possession of any such articles shall be prima facie evidence of violation thereof. (Code 1979, 6-901)

6-902

SALE OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS.

No person shall sell, or offer for sale, any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article from which the manufacturer's original number, or serial number or other distinguishing number or mark has been removed or which has been destroyed, covered, concealed, altered or defaced, knowing or having reason to know such property to be stolen. The sale or offer for sale of any such articles shall be prima facie evidence of violation hereof. (Code 1979, 6-902)

6-903

POSSESSION OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS.

No person shall buy or in any manner receive, or have in his or her possession any article mentioned in this Article on which the manufacturer's original number, mark, serial number or other distinguishing number or mark has been destroyed, removed, covered, concealed, altered or defaced, with reason to believe the property to be stolen. Possession of any such articles shall be prima facie evidence of violation hereof. (Code 1979, 6-903)

6-904

PENALTY, DISPOSITION OF PROPERTY.

Any person who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$25 nor more than \$500, or by imprisonment for a term not exceeding thirty (30) days, or by both fine and imprisonment. Property taken as evidence pending prosecution shall, after conviction, be retained by the police for such reasonable period of time as is necessary to locate the rightful owner, and if such owner is not located after reasonable efforts, then the property shall be remarked and sold at public auction. (Code 1979, 6-904)

ARTICLE 10. VALUABLE PROPERTY DEALERS

6-1001

DEFINITIONS.

- (A) Valuable Property - any jewelry, bullion, coins, silverware.
- (B) Valuable Property Dealer - any person who buys for selling purposes or who advertises in any way for the purchase of jewelry, bullion, coins, silverware.
- (C) Valuable Property Dealer License.

- (1) A valuable property dealer license is a permit to the applicant to operate as a valuable property dealer within the City. In consideration of this permit the applicant agrees to the conditions of this Article.
- (2) There shall be three types of licenses for valuable property dealers. Type "P" shall be issued to those valuable property dealers with permanent addresses and shall be valid for one year. Type "T" shall be issued to those dealers with temporary addresses within the City and shall be valid for sixty (60) hours. Type "D" (display) shall be issued to the sponsors of any coin show. The sponsors, upon application, take responsibility to see to it that all participants in the show abide by Section 6-1004 of this Article. The license shall be in effect for the duration of the show. Each "P" and "T" license shall be valid for one (1) person at one (1) address and is not transferable, negotiable, or subject to barter or exchange.
- (D) Temporary Address - a temporary address within the City where the valuable property dealer intends to do business for a limited or abbreviated period of time.
- (E) Permanent Address - a permanent address is any address within the City where the valuable property dealer intends to do business indefinitely.
- (F) Chief of Police - All references to Chief of Police are in reference to the Chief of Police of Lawrence, who is hereby authorized to delegate these duties to a designated representative thereof. (Ord. 5254, Sec. 1)

6-1002

LICENSE; INFORMATION.

Every license issued by the Chief of Police of the City shall require the valuable property dealer to give the following information:

- (A) Name, residence, phone number;
- (B) Place of business, phone number, how long so operated;
- (C) Type of valuable property dealt with;
- (D) Names of employees or associates;
- (E) Date of application and expiration date;
- (F) Sales tax number.

No license shall be issued unless all of the above information is disclosed. (Ord. 5254, Sec. 2)

6-1003

SAME; FEE.

The fee for a valuable property dealer's license shall be as provided in Section 6-108.22. (Ord. 5254, Sec. 1)

6-1004

DUTY OF DEALER.

It shall be the duty of every valuable property dealer to:

- (A) Register with the Chief of Police and thereby obtain a license to operate as such;

- (B) Keep at his or her place of business a register, furnished by the Chief of Police, in which he or she shall enter in ink with a legible hand a detailed description of all personal property purchased or received by the valuable property dealer immediately upon the purchase of any chattels or personal property. This description shall include, but not be limited to, any number or other identifying marks which might appear on such article or articles. Additionally, the valuable property dealer shall include the name, driver's license number, the amount paid thereof and the date and time of purchase;
- (C) Report daily if issued a Type "T" license to the Chief of Police with receipts for all property bought that day, and post a \$500 bond upon application of license;
- (D) Report at the close of the show if it is a Type "D" license. (Ord. 5254, Sec. 3)

6-1005

REGISTRATION FORMS.

It shall be the duty of the Chief of Police to:

- (A) Furnish all valuable property dealers with the necessary registration forms which shall be in the following form:

ARTICLE	SERIAL NUMBER
DESCRIPTION	
DATE	AMOUNT
VALUABLE PROPERTY DEALER	CLERK'S INITIAL
NAME OF CUSTOMER	
DRIVER'S LICENSE NUMBER	
CITY CODE NUMBERS	

REQUIRES THAT THIS FORM BE COMPLETELY FILLED OUT AND RETURNED TO THE LAWRENCE POLICE DEPARTMENT. (PLEASE PRINT)

- (B) Contact any valuable property dealer for the purpose of inspecting the register and/or property subject to be registered. (Ord. 5254, Sec. 4)

6-1006

INSPECTION OF REGISTER.

The register of a valuable property dealer shall at all times be kept open to the inspection of the Chief of Police or any law enforcement officer. (Ord. 5254, Sec. 5)

6-1007

INSPECTION OF ARTICLES.

Every valuable property dealer shall show and exhibit to any law enforcement officer for inspection any articles purchased, taken or received by him, and the register. All articles, purchased or received by a dealer which must be recorded in a register, as provided in Section 6-1004 of this Article and the register shall be kept at his or her place of business. (Ord. 5254, Sec. 6)

6-1008

CERTAIN PURCHASES PROHIBITED.

No dealer or any person employed by or acting for him, shall purchase, take or receive any article of property, of or from any intoxicated persons or any stolen property or property which, from any cause, he may have reason to believe or suspect, cannot be lawfully sold by the person offering it. (Ord. 5254, Sec. 7)

6-1009

PURCHASES FROM PERSONS UNDER EIGHTEEN.

It shall be unlawful for any dealer or any person employed by or acting for him to

purchase any property from a person under the age of eighteen (18) years unless a parent or guardian is physically present or written approval is obtained from the parent or guardian. (Ord. 5254, Sec. 8)

6-1010

FALSE INFORMATION ON FORMS.

The giving of false information by a valuable property dealer or the person selling to the valuable property dealer shall constitute a violation under this Article. (Ord. 5254, Sec. 9)

6-1011

EXCEPTIONS.

The following are exempted from the operation of this Article:

- (A) Any purchase or sale of \$50 or under;
- (B) All bulk transfer between dealers except that:
 - (1) Bulk dealers must be registered;
 - (2) Records of the transfer must be maintained as provided for under this Article except that the waiting period in Section 6-1007 is suspended;
- (C) Valuable property which has been sold between the valuable property dealers and kept in the possession of the seller for two (2) days is not required to be held by the buyer for any period;
- (D) Any valuable property dealer who repeatedly services a customer, is certain of that customer's identification and has a previous recorded identification of that person, is not required to identify that person on every subsequent purchase. (Ord. 5254, Sec. 10)

6-1012

PENALTY.

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$1,000 or be imprisoned in the City jail for a period of not exceeding six (6) months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 5254, Sec. 11)

ARTICLE 11. HORSE DRAWN VEHICLES

6-1101

PROVISIONS FOR REGULATIONS.

The provisions of Chapter VI, Article 6 (Taxicab Code) and Chapter III, Articles 1 and 2 (Animal Control Code) shall not apply to horse-drawn vehicles. All horse-drawn vehicles for hire shall be regulated by this Article, Chapter VI, Article 11. (Ord. 6417)

6-1102

DEFINITIONS.

- (A) "For Hire" means the provision of services, or the offering of services, of a horse-drawn vehicle for the payment of money or other considerations.
- (B) "Horse-drawn vehicle" means a wagon, coach, or other vehicle that is powered in whole or in part by one or more horses, mules, or other animals.

- (C) "License" means the written authority granted by the City Commission under this Article to engage in the business of operating horse-drawn vehicles for hire in the City. (Ord. 6417)

6-1103

REQUIREMENTS FOR DRIVERS OF HORSE-DRAWN VEHICLES.

- (A) Drivers must be 18 years of age or older;
- (B) Drivers must possess a valid Kansas motor vehicle driver's license;
- (C) Drivers must complete forty (40) hours of training which shall include, but is not limited to:
 - (1) Learning the proper method of fitting the bridle, bit harness and padding to a horse and hitching and unhitching a properly harnessed horse;
 - (2) Learning the proper method of maintaining and cleaning harnesses, bridles, bits and padding;
 - (3) Riding with a driver experienced in livestock handling and driving the first twenty-four (24) hours of training to observe the proper handling and driving of a horse drawn vehicle and training in emergency situations for unexpected animal behavior;
 - (4) Driving under the supervision of an experienced driver during the last sixteen (16) hours of training. (Ord. 6417)

6-1104

OPERATION OF HORSE-DRAWN VEHICLES.

- (A) Horse-drawn vehicles shall be equipped with the following:
 - (1) Brakes, taillights, turn signals, and a slow-moving vehicle sign on the rear of the vehicle;
 - (2) Front lights which shall emit light to the front side and which shall be visible from a distance of 500 feet;
 - (3) A 50% bleach and 50% water compound which shall be poured over horse urine so as to break down and eliminate accumulated agents and odors.
- (B) Horse-drawn vehicle drivers or operators shall not solicit patronage in an amplified tone of voice or in any manner to annoy or obstruct the peace or movement of persons, or follow any person for the purpose of soliciting patronage.
- (C) Horse-drawn vehicle drivers or operators are prohibited from smoking, eating, or wearing headphones while carrying passengers.
- (D) Horse-drawn vehicle drivers shall not operate under the influence of alcohol or drugs.
- (E) Horse-drawn vehicle drivers or operators shall not allow the occupancy of the vehicle to exceed the rated seating capacity of the vehicle.

- (F) Horse-drawn vehicles, when in motion, shall be operated only in the traffic lane closest to the curb on any public street, except when turning.
- (G) Horse-drawn vehicles shall comply with all applicable local traffic laws, ordinances, and regulations. Horse-drawn vehicles shall be considered a motor vehicle as defined in the Standard Traffic Ordinance, Section 17-101 et seq. of this Code.
- (H) No passenger shall be allowed to ride on any part of the vehicle while in motion, except while seated inside the vehicle.
- (I) Passengers shall not be intoxicated, or demonstrate disorderly conduct.
- (J) Travel on any street where the speed limit exceeds 30 miles per hour shall be limited to the maximum extent feasible.
- (K) Horse-drawn vehicles shall not remain parked upon the public street and shall not be left unattended upon any public-right-of-way at any time.
- (L) All horses shall be equipped with a waste-catching device, approved by the City, while on any public right-of-way. Any waste or debris resulting from the horse or vehicle shall be removed immediately by the driver or other attendant. (Ord. 6417)

6-1105

REQUIREMENT AS TO HORSES.

- (A) The hooves of the horse must be properly shod and trimmed, utilizing rubber coated, rubber heal pads or open steel barium tip shoes to aid in the prevention of slipping;
- (B) The horse shall be groomed daily.
- (C) Every horse shall be examined prior to use in a horse-drawn vehicle business and every six (6) months thereafter, at the licensee's expense, by a licensed veterinarian, who shall certify that the horse is in good health, proper condition and of the appropriate body weight to perform such work. A health certificate signed by the examining veterinarian shall be filed with the City Clerk after each exam. Horses shall be examined and treated for internal parasites at intervals recommended by the examining veterinarian. The certificate shall also show that the horse has been immunized appropriately, including immunization annually against rabies, and has had a Coggins test with a negative result.
- (D) All harnesses and bits shall be used and maintained in accordance with the manufacturing design.
- (E) No horse shall be utilized to pull a vehicle carrying more passengers than such vehicle is designed to carry by the manufacturer, nor shall a vehicle be pulled by fewer animals than provided for by such design.
- (F) Horse-drawn vehicle licensees and drivers shall adhere to the following:
 - (1) Horses used to drive vehicles shall be given a fifteen (15) minute rest period at the end of two (2) consecutive labor hours, and potable water shall be made available during the rest period. Labor hours are defined as in-harness hours.

- (2) No horse shall be worked more than eight (8) hours in a twenty-four (24) hour period, nor more 48 hours in a seven (7) day week.
 - (3) No horse may be worked with equipment causing an impairment of vision, other than blinders.
 - (4) The driver of a horse-drawn vehicle shall not apply a whip to a horse other than by light touch.
 - (5) No horse drawing a vehicle shall be worked at a speed faster than a slow trot.
 - (6) Unsheltered horses shall be blanketed when the temperature is 35 degrees Fahrenheit or less, after appropriate cool-down.
 - (7) Horses shall not be worked more than four (4) hours in temperatures exceeding 90 degrees Fahrenheit when the humidity exceeds twenty percent (20%).
- (G) The horse-drawn vehicle licensee shall be responsible for the humane care and treatment of the animal at all times, whether under direct control and supervision or whether under the control, supervision or care of an employee of the licensee. (Ord. 6417)

6-1106

LICENSE REQUIRED.

No person shall operate or cause to be operated a horse-drawn vehicle for hire, upon a public street or right-of-way, except as provided in this article. Every person desiring a license to operate or cause to be operated a horse-drawn vehicle shall make application with the City Clerk. (Ord. 6417)

6-1107

RESPONSIBILITY OF LICENSEE.

Any person who shall make application for a license under this Article shall be held responsible for the driver or drivers placed in charge of the horse-drawn vehicles operated by the licensee. The applicant shall acknowledge such responsibility in writing on the application. (Ord. 6417)

6-1108

CONSIDERATION BY THE GOVERNING BODY.

The Governing Body may grant a license with or without conditions, or deny the license application. Consideration of the license application may include the adequacy of provisions for public safety, sanitation, traffic flow, and the health and well-being of the animal(s). (Ord. 6417)

6-1109

CITY CLERK TO ISSUE THE LICENSE.

If an application for license is approved by the Governing Body, the City Clerk shall issue to the applicant a license to operate the vehicle or vehicles designated in such application, upon payment of license fees and upon the filing with the City Clerk of the insurance policy and health certificate(s) required by this Article. (Ord. 6417)

6-1110

LICENSE FEES.

The fees for the license required by Article are set forth in section 6-108.19.5. Such fees shall be due and payable annually, in advance on or before the first day of January of each year hereafter, without reductions for fractional periods of time. (Ord. 6417)

6-1111

APPLICATION OF ARTICLE.

The provisions of this Article shall apply to all horse-drawn vehicles for hire operating between points in the City, between points without the City and within the City, and between points without the City and whose route lies in or through the City. (Ord. 6417)

6-1112

PENALTY / FINE, FAILURE TO COMPLY.

- (A) Horse-drawn vehicles for hire operating on public streets and rights-of-way shall comply with all applicable traffic regulations. Drivers of horse-drawn vehicles shall be issued citations for violations of traffic laws or this Article.
- (B) Violations of this Article shall be punishable by a fine of not less than \$100, nor more than \$500. Each consecutive day's violation shall be punishable as a separate offense. (Ord. 6417)

6-1113

INSURANCE.

- (A) Before any license for a horse-drawn vehicle shall be issued, the owner shall file with the City Clerk an insurance policy issued by an insurance company licensed to do business in this state, providing insurance coverage for each and every horse-drawn vehicle owned, operated, or leased by the applicant with a minimum of one-hundred thousand dollars (\$100,000) for the injury or death of any one person and three-hundred thousand dollars (\$300,000) for the injury or death of any number of persons in any one accident, and fifty thousand dollars (\$50,000) for property damage resulting from any one accident, regardless of whether the horse-drawn vehicle was being driven by the owner, his or her agent, employee, lessee, or permittee.
- (B) The insurance policy shall contain a provision naming the City of Lawrence as an additional insured party.
- (C) The cancellation or other termination of any insurance policy issued for and in compliance with the provisions of this section shall automatically terminate any license issued for the horse-drawn vehicle covered by such insurance policy unless another policy complying with the provisions of this section shall be provided and in full force and effect at the time of cancellation or termination. (Ord. 6417)

6-1114

REVOCAION OF LICENSE.

- (A) The Governing Body may revoke or cancel the license of licensee under this Article, if the owner or driver of any licensed vehicle shall be found to be guilty of misconduct, violated any provision of this article or condition of the license, or any traffic law of the City.
- (B) The Governing Body may revoke any license issued under this Article with at least three days notice and providing the opportunity for the owner to address the Governing Body.
- (C) The Governing Body grants the City Manager the authority to suspend a license issued under the provisions of this article if there is an immediate and serious threat to the public safety. The license will remain suspended until such time as it is reviewed by the Governing Body, not to exceed thirty days from the time of suspension.

- (D) Any license issued under the provisions of this Article shall be immediately canceled or revoked upon notification to the City of cancellation, termination, or expiration of insurance as required by 6-1113. (Ord. 6417)

ARTICLE 12. SIDEWALK DINING LICENSE

6-1201

PURPOSE.

The Governing Body finds that, because it encourages a pedestrian-oriented environment, because it creates a vibrant and visually attractive streetscape, and because it promotes and stimulates commerce, it is in the best interest of the residents of the City of Lawrence, Kansas, to permit, subject to regulation, Sidewalk Dining. (Ord. 8831)

6-1202

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 8831, Ord. 8274)

- (a) **"Applicant"** shall refer to a Hospitality Establishment, or a person authorized to act in its behalf, that has filed with the City Clerk an application for a Sidewalk Dining License.
- (b) **"Hospitality Establishment"** shall mean any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises.
- (c) **"Licensee"** shall mean any Hospitality Establishment licensed by the City under this Article to use a Sidewalk for Sidewalk Dining.
- (d) **"Sidewalk"** shall mean the City-owned right of way or easement adjoining the property line of a Hospitality Establishment.
- (e) **"Sidewalk Dining"** shall mean the consumption of food, beverages, or both by patrons of a Hospitality Establishment outdoors on a specific area of a Sidewalk set aside for that purpose.

6-1203

SIDEWALK DINING LICENSE REQUIRED.

No Hospitality Establishment shall permit Sidewalk Dining without first obtaining a Sidewalk Dining License. (Ord. 8831)

6-1204

SIDEWALK DINING LICENSE FEE.

The fee for a Sidewalk Dining License shall be \$3.50 per square foot per year. The fee shall be considered to be in the nature of a lease payment for the commercial use of the Sidewalk. The Sidewalk Dining License fee shall be pro-rated for the first partial year in which it is issued. The Sidewalk Dining License Fee shall not be pro-rated or refunded in the case of suspension or revocation of a Sidewalk Dining License. (Ord. 8831, Ord. 8274)

6-1205

SIDEWALK DINING LICENSE APPLICATION.

Application for a Sidewalk Dining License shall be made to the City Clerk on a form provided by the City Clerk for that purpose. The Applicant shall complete the form in full and shall provide, at the least, the following: (Ord. 8831, Ord. 8274)

- (A) The name of the Hospitality Establishment to be licensed, including its e-mail address, business address, business telephone, and mailing address.

- (B) If the Hospitality Establishment to be licensed is a corporation, partnership, or other business organization, the names, addresses, and dates of birth of all officers, directors, partners, or members.
- (C) The name of the manager of the Hospitality Establishment, his or her telephone number, mailing address, and e-mail address.
- (D) Written permission of all owners of record and all equitable owners, if any, of the real property upon which the Hospitality Establishment is located that would be offering Sidewalk Dining.
- (E) Written permission from all property owners and all tenants, if any, of properties adjacent to the Hospitality Establishment seeking the Sidewalk Dining License, declaring that said owners and tenants, if any, have no objection to the issuance of the Sidewalk Dining License.
- (F) Remittance of the Sidewalk Dining License Fee in the amount established at Section 6-1204.
- (G) A copy of a Certificate of Insurance, in accordance with Section 6-1209.3, establishing that the Applicant has procured appropriate liability insurance and that said insurance is current.
- (H) A copy of the Applicant's Kansas Food Establishment License.
- (I) A copy of the Applicant's State of Kansas sales and liquor tax reports, if any, for the preceding twelve months.
- (J) An executed Right of Way Agreement between the City and the owner(s) of the real property upon which the Hospitality Establishment, seeking the Sidewalk Dining License, is located.
- (K) A statement that the Applicant has submitted a Site Plan to the Lawrence-Douglas County Metropolitan Planning Office for approval.
- (L) The Applicant's signature and the date.

6-1206

SIDEWALK DINING LICENSE ISSUANCE; DENIAL

(Ord. 8831, Ord. 8274)

- (A) The City Clerk shall review each application for a Sidewalk Dining License. Within a reasonable time thereafter, the City Clerk shall submit the application to the Governing Body for approval unless:
 - (1) The application is incomplete.
 - (2) The Hospitality Establishment has had a Sidewalk Dining License revoked by the City for any reason within the preceding two (2) years.
- (B) If the application is incomplete, then the City Clerk shall notify the Applicant and shall allow the Applicant additional time to complete the application. Within a reasonable time after its completion, the City Clerk shall submit the completed application to the Governing Body for approval.
- (C) If the application is incomplete because the Applicant was unable to procure the signatures required by Section 6-1205(e), or if it the Hospitality

Establishment has had a Sidewalk Dining License revoked within the two (2) previous years under Section 6-1206(a)(2), then the City Clerk shall deny the application by giving Notice of Denial to the Applicant. Notice of Denial shall be in writing, shall be mailed to the Applicant at his or her given address, shall inform the applicant of the reason for denial, and shall inform the Applicant that he or she has fourteen (14) days from the date of the Notice of Denial within which to submit to the City Clerk, in writing, a request for a public hearing before the Governing Body.

6-1207

SIDEWALK DINING LICENSE APPEARANCE; DURATION.

(Ord. 8831, Ord. 8274)

- (A) The Sidewalk Dining License shall contain the seal of the City, the name and mailing address of the Licensee, and the expiration date of the license.
- (B) The Sidewalk Dining License shall be valid for a period not to exceed one year and shall expire at midnight on the subsequent November 1st.

6-1208

SIDEWALK DINING LICENSE RENEWAL; DENIAL

(Ord. 8831, Ord. 8274)

- (A) Not less than thirty (30) days prior to the expiration date of a Sidewalk Dining License, the City Clerk shall mail to the Licensee a renewal application form. The Licensee shall complete the renewal application form and shall return the same to the City Clerk no later than November 1 of that year, providing, at the least, the following:
 - (i) The name of the Licensee, including its e-mail address, business address, business telephone, and mailing address.
 - (ii) If the Licensee is a corporation, partnership, or other business organization, the names, addresses, and dates of birth of all officers, directors, partners, or members.
 - (iii) The name of the manager of the Licensee, his or her telephone number, mailing address, and e-mail address.
 - (iv) Remittance of the Sidewalk Dining License Fee in the amount established at Section 6-1204.
 - (v) A copy of a Certificate of Insurance, in accordance with Section 6-1209.3, establishing that the Licensee has procured appropriate liability insurance and that said insurance is current.
 - (vi) A copy of the Licensee's Kansas Food Establishment License.
 - (vii) A copy of the Licensee's state sales and liquor tax reports for the preceding twelve months.
 - (viii) The Licensee's signature and the date.
- (B) For any Sidewalk Dining License Fee and renewal application form received by the City Clerk after November 15, the City Clerk shall assess to the Licensee, as a late fee, a penalty not to exceed 10% of the Licensee's Sidewalk Dining License Fee.
- (C) At the same time that he or she mails to the Licensee a renewal application form, the City Clerk shall mail to all adjoining property owners of record and

tenants of such property Notice that the Licensee is seeking to renew the Sidewalk Dining License and that said persons or business entities have thirty (30) days from the date of the Notice within which to submit in writing to the City Clerk any objection to a renewal of the Sidewalk Dining License.

- (D) If the renewal application form is submitted to the City Clerk, is complete (including remittance of the Sidewalk Dining License Fee), and no timely written objection under Section 6-1208(c) is received, then the City Clerk shall submit the renewal application to the Governing Body for approval.
- (E) If the renewal application form is incomplete or if the City Clerk receives timely written objection under Section 6-1208(c), then the City Clerk shall deny the renewal application by giving Notice of Denial to the Licensee. Notice of Denial shall be in writing, shall be mailed to the Licensee at his or her given address, shall inform the Licensee of the reason for denial, and shall inform the Licensee that he or she has fourteen (14) days from the date of the Notice of Denial within which to submit to the City Clerk, in writing, a request for a public hearing before the Governing Body.

6-1209

SIDEWALK DINING LICENSE CONDITIONS.

Each Sidewalk Dining License issued by the Governing Body shall be subject to the following conditions and requirements: (Ord. 8831)

6-1209.1

COMPLIANCE WITH ZONING REQUIREMENTS.

The use of the Sidewalk shall be in conformance with the zoning regulations governing the real property upon which the Licensee is located. The use shall be limited to the sale, possession, and consumption of food, beverages, or both as part of the business of the Licensee. (Ord. 8831)

6-1209.2

SITE PLAN.

(Ord. 8831)

- (A) In conjunction with its application for a Sidewalk Dining License, the Applicant shall, in accordance with Chapter 20 of the Code of the City of Lawrence, Kansas, as amended, submit a Site Plan to the Lawrence-Douglas County Planning Department for approval. In addition to meeting all requirements of Chapter 20, the Site Plan shall include the following:
 - (i) Elevation drawings.
 - (ii) A note setting forth the square footage of Sidewalk Dining area.
 - (iii) A drawing or diagram showing the seating configuration within the Sidewalk Dining area.
 - (iv) A drawing or diagram showing that there is a minimum of six (6) feet width of unobstructed Sidewalk reserved for pedestrian use between the proposed Sidewalk Dining area and the street curb or plantings, whichever is closer.
 - (v) A drawing or diagram outlining the area to be used for Sidewalk Dining and showing the location of railings or barriers that shall separate it from that portion of the Sidewalk reserved for pedestrian use. The railings or barriers shall be constructed of wrought iron, ornamental metal, or other compatible materials that reflect and conform to the character of the area. The Site Plan shall also note the style, design, and color of the railings or barriers.

- (vi) A drawing or diagram showing any umbrellas proposed to be maintained within or overhanging the Sidewalk Dining area or the Sidewalk. Any umbrellas associated with the Sidewalk Dining use shall maintain a minimum distance of eighty (80) inches between the sidewalk surface and the lowest part of the umbrella's canopy.
 - (vii) A note stating whether the Licensee will use amplified music or sound in conjunction with the Sidewalk Dining use. Any use of amplified music or sound shall comply with the City's noise ordinance.
- (B) If required by law, the Site Plan shall also be reviewed and approved by the Historic Resources Commission and/or the State Historic Preservation Officer.

6-1209.3

INSURANCE.

The Licensee shall carry an insurance policy issued by a reputable insurance company licensed to do business in the State of Kansas. The policy shall insure the Licensee in an amount not less than \$500,000 per single incident for any liability associated with the failure of the Licensee, its employees, agents, servants, invitees, or patrons, to exercise reasonable care and diligence in the use of the Sidewalk. Proof of insurance shall be submitted to the City Clerk on a standard ACORD form, or substantially similar form as approved by the City Clerk, and shall establish that the Licensee maintains the requisite insurance and that it is current. The certificate shall also require the insurance carrier to notify the City at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term. (Ord. 8831)

6-1209.4

INDEMNIFICATION.

The Licensee must comply with all terms of the executed Right of Way Agreement. Among other things, the Right of Way Agreement shall provide that the Licensee agrees, at all times, to save and to hold harmless the City, its officials, officers, employees, and agents, from all liability, costs, damages, and expenses of any kind, for the payment of which the City may become liable to any person, firm, or corporation by reason of any claim or damages related to or arising out of the Licensee's use of the Sidewalk for Sidewalk Dining. (Ord. 8831)

6-1209.5

REMOVAL OF FIXTURES.

The City may require, at any time and for any reason, the removal of any fixtures placed on the Sidewalk pursuant to this Article. The Licensee shall be responsible for any costs incurred in the removal of fixtures and shall return the Sidewalk to City pavement standards. If the Licensee is no longer the tenant of the real property at the time that removal is required, then the owner(s) of record of the real property shall be responsible for any costs incurred in removing the fixtures and in returning the sidewalk to City pavement standards. (Ord. 8831)

6-1209.6

ALCOHOLIC LIQUOR; CEREAL MALT BEVERAGES.

The Governing Body may permit the Licensee to serve and the Licensee's patrons to purchase, possess, and consume alcoholic liquor and/or cereal malt beverages within the Licensee's Sidewalk Dining area in accordance with Chapter 4 of the City Code. The Licensee shall also comply with all State and City laws and ordinances governing the sale, possession, and consumption of alcoholic liquor and cereal malt beverages. (Ord. 8831)

6-1209.7

SIDEWALK DINING LICENSE MAINTAINED ON THE PREMISES.

A Licensee shall retain the Sidewalk Dining License on the premises and shall make it readily accessible for viewing by City personnel. (Ord. 8831)

6-1209.8

SIDEWALK DINING LICENSE NON-TRANSFERABLE.

No Sidewalk Dining License issued in accordance with the provisions of this Article shall be used by any person other than the Licensee to whom it was issued. (Ord. 8831)

6-1210

SIDEWALK DINING LICENSE RESTRICTIONS.

(Ord. 8831)

(A) No Sidewalk Dining License will be issued under this Article to any Hospitality Establishment that does not derive at least fifty-five percent (55%) of its gross receipts from the sale of food and non-alcoholic beverages, *unless* the Hospitality Establishment has no reasonable location for an outdoor hospitality area. A Hospitality Establishment has no reasonable alternative location for an outdoor hospitality area if no single outdoor area on the premises of the Hospitality Establishment:

(i) Is at least fifty square feet (50 ft²) in area, excluding the measurement of any area that serves as the most direct path between a customer entrance to the interior of the Hospitality Establishment and the public right of way. In determining the dimensions of any area excluded from measurement under this subsection, the width of the excluded area shall be no greater than the width of the customer entrance served by that area, or six feet (6 ft), whichever is less.

(ii) Is at least five feet (5 ft) wide, with width defined as the shortest dimension.

(B) If food is served by a Licensee anywhere on its premises, then food service must also be made available in the Sidewalk Dining area during the same times and at the same prices that food is available elsewhere on the premises.

(C) These restrictions shall not apply to any Licensee that would be in violation of these restrictions and that has an active Sidewalk Dining License at the time that this Ordinance is enacted.

6-1211

NOTICE OF VIOLATION.

Any Licensee determined by the City to be in violation of any provision of this Article shall be sent a Notice of Violation. The Notice of Violation shall be sent by certified mail, postage prepaid, and return receipt request to the Licensee. The Notice of Violation shall state: (Ord. 8831)

(A) The condition that has caused the violation;

(B) The time within which the Licensee must cure the violation; and

(C) That the Licensee shall have fourteen (14) days from the date of the Notice of Violation to request, in writing, a public hearing before the Governing Body.

6-1212

SUSPENSION; REVOCATION.

If the continued operation of the Sidewalk Dining is determined by the City to be injurious to the health, safety, and welfare of the residents of the City, or if the

Licensee has failed to cure a violation of this Article, the City shall send to the Licensee either a Notice of Suspension or a Notice of Revocation. (Ord. 8831)

6-1213

PUBLIC HEARING.

- (A) Any Applicant or Licensee, aggrieved by the action of the City in denying an application for a Sidewalk Dining License, in issuing a Notice of Violation, in suspending a Sidewalk Dining License, or in revoking a Sidewalk Dining License, shall have the right to a public hearing before the Governing Body by requesting such a hearing within fourteen (14) days of the date of the Notice of Denial, Notice of Violation, Notice of Suspension, or Notice of Revocation. The Request for Hearing must be in writing, must be delivered to the City Clerk, and must set forth why the Applicant or Licensee believes that the Notice of Denial, Notice of Violation, Notice of Suspension, or Notice of Revocation is in error. After the Request for Hearing is filed, the Governing Body shall set a time and place for the hearing. Notice of the hearing shall be given to the Owner in the same manner as the Notice of Denial, Notice of Violation, Notice of Suspension, or Notice of Revocation.
- (B) If the hearing involves a Notice of Denial, the Governing Body shall not grant a Sidewalk License unless the Applicant establishes (1) that the Notice of Denial was issued in error or (2) that it is within the public's interest to approve the application for a Sidewalk Dining License. The Governing Body shall base its decision on the credible evidence adduced at the public hearing and shall make findings of fact sufficient to support its determination.
- (C) If the hearing involves a Notice of Violation, Notice of Suspension, or Notice of Revocation, the Governing Body shall affirm, reverse, or modify the Notice of Violation, Notice of Suspension, or Notice of Revocation. The Governing Body shall reverse the decision of City Staff only if it finds that the Notice of Violation, Notice of Suspension, or Notice of Revocation was issued erroneously. The Governing Body shall base its decision on the credible evidence adduced at the public hearing and shall make findings of fact sufficient to support its determination.
- (C) In the event of a public hearing, the decision of the Governing Body shall be the final decision of the City. If no hearing is requested, then the Notice of Denial, Notice of Violation, Notice of Suspension, or Notice of Revocation shall be the final decision of the City.

6-1214

ADMINISTRATIVE REGULATIONS.

(Ord. 8831)

- (A) In order to protect the health, safety, and welfare of the community, the City Manager or his or her designee shall have the power to promulgate reasonable administrative regulations governing a Licensee's use of the Sidewalk for Sidewalk Dining. Any regulations promulgated in accordance with this Article shall be dated and shall be available for inspection by the public during reasonable business hours. A Licensee shall receive a copy of any regulations at the time of the issuance of any Sidewalk Dining License or the renewal of a Sidewalk Dining License.
- (B) The Licensee shall comply with all regulations promulgated by the City Manager or is or her designee in accordance with this Article. Failure to abide with any regulation shall be grounds for Notice of Violation, Notice of Suspension, or Notice of Revocation pursuant to Sections 6-1211 or 6-

1212 of this Article.

6-1215

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8274, Ord. 8831)

ARTICLE 13. LONG-TERM RESIDENTIAL RENTAL PROPERTY

6-1301

SHORT TITLE; PURPOSE.

(Ord. 8840, Ord. 9110)

- (A) This Article shall be known as the City's "Long-term Residential Rental Property Code."
- (B) The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the Long-term Renting or Letting of Dwelling Units on Residential Rental Property within the City.

6-1302

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 8840, Ord. 9110)

- (A) **"Code Official"** shall mean the Code Enforcement Officer, anyone fulfilling the duties of the Code Enforcement Officer on either a temporary or permanent basis, or any designee of the City Manager, the Director of the Department of Planning and Development Services, or the Code Enforcement Officer.
- (B) **"Dwelling Unit"** shall mean one room, or a suite of two or more rooms, designed for or used for living and sleeping purposes and having only one kitchen.
- (C) **"Let"** shall mean to provide or to offer for possession or Occupancy a Dwelling Unit to a Tenant for no consideration.
- (D) **"Licensee"** shall mean any Owner or Person licensed by the City under this Article to Rent or Let a Dwelling Unit, on a Long-term basis, on Residential Rental Property.
- (E) **"Long-term"** shall mean a period of time that is equal to or greater than (30) days in length.
- (F) **"Major Reconstruction"** shall mean a renovation in which four or more Primary Building Systems of a building or structure undergo at least a 50% replacement within a twelve-month period. For the purposes of this definition, Primary Building System shall mean: (1) HVAC; (2) electrical; (3) interior walls and/or external structural walls and windows; (4) roofs and ceilings; (5) plumbing; and (6) foundation and foundation walls.
- (G) **"New Construction"** shall mean any building or structure built entirely new, including foundation, walls, and all other components of a building or structure.

- (H) **"Occupancy" or "Occupy"** shall mean residing or sleeping at a Dwelling Unit the majority of a person's time.
- (I) **"Owner"** shall mean the individual or individual(s), natural or corporate, in possession of lawful title to real property. As used in this Article, Owner may also include any authorized agent of the possessor of lawful title to real property. For the purposes of this Article, the term "Owner" may be used interchangeably with the terms "Person" and "Licensee."
- (J) **"Person"** shall mean any natural person, business association, or business entity, including but not limited to corporation, partnership, limited liability company, sole proprietorship, political subdivision of the State or other governmental entity, public or private agency, utility, or any other legal entity, or any successor or assign of any of the foregoing. Also, for the purposes of this Article, the term "Person" may be used interchangeably with the terms "Owner" and "Licensee."
- (K) **"Premises"** shall mean a lot or contiguous lots under common ownership, together with all buildings, structures, and appurtenances existing thereon.
- (L) **"Qualified Vacant Dwelling Unit"** shall mean any Dwelling Unit that, at the time of inspection, is not occupied by a Tenant or any other person and has not previously been inspected by the Code Official.
- (M) **"Re-inspection"** shall mean any subsequent inspection conducted for the purpose of verifying that any violations reported during any inspection have been remediated.
- (N) **"Rent"** shall mean to provide or to offer, for possession or Occupancy, a Dwelling Unit to a Tenant for consideration, pursuant to a written, oral, or implied agreement.
- (O) **"Rental License"** shall mean any license issued by the City under this Article for the Renting or Letting, on a Long-term basis, of a Dwelling Unit on Residential Rental Property within the City.
- (P) **"Resident Agent"** shall mean any Person, appointed by an Owner, who shall be responsible for compliance with this Article and who shall have the authority, *inter alia*, to take certain actions and to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
- (Q) **"Residential Rental Property"** shall mean any Premises having one or more Dwelling Units that are Rented or Let to one or more Tenants.
- (R) **"Short-term"** shall mean a period of time that is less than thirty (30) days in length.
- (S) **"Tenant"** shall mean any natural person who Occupies a Dwelling Unit, other than the Owner, the Owner's immediate family (related by blood, marriage, or adoption), or any natural person residing with the Owner.

6-1303

RENTAL LICENSE REQUIRED.

(Ord. 8840, Ord. 9110)

- (A) No Owner or Person shall Rent or Let to a Tenant, on a long-term basis, whether or not for consideration, a Dwelling Unit located on Residential Rental Property within the City, unless otherwise exempted by this Article, without first (i) obtaining from the Department of Planning and Development Services a Rental License for each Dwelling Unit (ii) having a current, valid Rental License for that Dwelling Unit.
- (B) In the case of multiple Owners of any Dwelling Unit subject to this Article, it shall be sufficient for any one of the Owners to have obtained a Rental License for the Dwelling Unit.

6-1304

RENTAL LICENSE FEES.

(Ord. 8840)

- (A) All Owners obtaining a Rental License under this Article shall pay an annual Rental License Fee. The Rental License Fee shall be due at the time of application or renewal. The Rental License Fee shall not be prorated or refunded upon denial or revocation of a Rental License.
- (B) Recognizing that the costs to the City of registering and licensing multiple Dwelling Units of an Owner decrease on a per unit basis as the number of Dwelling Units increases, the City shall assess Rental License Fees under this Article according to the following schedule:
 - (1) 1-50 Dwelling Units: \$17.00 per Dwelling Unit.
 - (2) 51-100 Dwelling Units: \$850.00, or \$16.00 per Dwelling Unit, whichever amount is more.
 - (3) 101-150 Dwelling Units: \$1,600.00, or \$15.00 per Dwelling Unit, whichever amount is more.
 - (4) 151 or more Dwelling Units: \$2,250.00, or \$14.00 per Dwelling Unit, whichever amount is more.

6-1305

RENTAL LICENSE APPLICATION.

Application for a Rental License shall be made to the Department of Planning and Development Services on a form provided by the Department for that purpose and substantially similar to the form attached as Appendix A to the Regulations, as promulgated by the Governing Body in accordance with Section 6-1323(A). In addition, the Owner shall complete the application in full, in writing, and shall provide the following information: (Ord. 8840, Ord. 9110)

- (A) The address(es) of the Dwelling Unit(s).
- (B) The Owner's name, address, telephone number, cellular telephone number, and e-mail address, as applicable.
- (C) (1) If the Owner has a local address, within forty miles of the City, then he or she MAY appoint a person or management company, also within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, if any, and telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have actual authority to receive communications, service of process, summons, notices, and other

legal process in behalf of the Owner.

- (2) If the Owner does not have a local address, within forty miles of the City, then he or she MUST appoint a person or management company, located within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, if any, and telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have actual authority to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
- (D) A statement as to whether the Dwelling Unit is Section 8 housing or other subsidized housing and, if so, the date of its most recent inspection.
- (E) The Owner's or Resident Agent's signature and the date of the application. In order for the City to accept a Resident Agent's signature, the application must be accompanied by the Owner's written, notarized authorization granting the Resident Agent actual authority to sign documents and to act in behalf of the Owner for the purposes of this Article.

6-1306

RENTAL LICENSE ISSUANCE; DENIAL.

(Ord. 8840)

- (A) The Code Official shall review each application for a Rental License. Within thirty (30) days of the application, the Code Official shall approve the application and shall issue to the Owner a Rental License, unless:
 - (1) The application is incomplete; or
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
- (B) If the application is determined to be deficient because it is incomplete under Section 6-1306(A)(1), including the failure to pay the Rental License Fee and any Inspection Fee, the Code Official shall give notice to the Owner and permit the Owner fourteen (14) days therefrom within which to provide a completed application.
- (C) If the application is denied under Section 6-1306(A)(2), or the Owner has failed to complete the application within the fourteen-day period of Section 6-1306(B), then the Code Official shall deny the application by giving Notice of Denial to the Owner or any Resident Agent. Notice of Denial shall be in writing, shall be mailed to the Owner or any Resident Agent, shall inform the Owner of the reason for denial with specificity, including all documentation supporting any allegation of fraud or material misrepresentation, and shall state that the Owner has fourteen (14) days from the date of the Notice of Denial in which to file with the Department of Planning and Development Services any written Notice of Appeal in accordance with Section 6-1317.
- (D) The Code Official shall maintain a copy of the Notice of Denial in his or her files.

6-1307

RENTAL LICENSE APPEARANCE; MAINTENANCE

(Ord. 8840)

- (A) The Rental License shall be on official City of Lawrence, Planning and Development Services, letterhead and shall include the Rental License number, the name of the Licensee, the address of the Dwelling Unit, and the expiration date of the Rental License.
 - (1) The form and substance of the Rental License shall be substantially similar to the form attached as Appendix B to the Regulations, as promulgated by the Governing Body in accordance with Section 6-1323(A).
- (B) The Rental License shall be maintained by the Licensee on the Premises, if possible, or at the Licensee's principal place of business, and shall be made available, upon request, to any Tenant of the Dwelling Unit or to the Code Official.

6-1308

RENTAL LICENSE DURATION.

Unless revoked in the interim, the Rental License shall be valid from the time that it is issued until midnight of its next Expiration Date, which shall be in accordance with the following schedule: (Ord. 8840)

Registration Name Begins With:	Expiration Date:
A, B	January 31
C, D	February 28
E, F	March 31
G, H	April 30
I, J	May 31
K, L	June 30
M, N	July 31
O, P, Q	August 31
R, S	September 30
T, U	October 31
V, W	November 30
X, Y, Z	December 31

6-1309

RENTAL LICENSE RENEWAL.

(Ord. 8840, Ord. 9110)

In order to retain a Rental License for a Dwelling Unit, the Licensee must renew the Rental License on an annual basis. At least four weeks before a Rental License expires, the Code Official will mail to a Licensee or any Resident Agent a renewal Notice. To renew a Rental License, the Licensee must, BEFORE the Expiration Date set forth on the Rental License: (a) remit to the City the appropriate Rental License Fee and any Inspection Fee that may be due pursuant to Section 6-1311; (b) return the renewal stub to the Department of Planning and Development Services; and (c) the Licensee's Dwelling Unit(s) must have, unless otherwise exempted by this Article, have passed its (or their) most recent inspection.

6-1310

INSPECTIONS.

(Ord. 8840, Ord. 9110)

- (A) In accordance with Section 6-1310(C), unless otherwise exempted by the terms of this Article, all Residential Rental Property shall be inspected by the Code Official, on approximately a three-year cycle, according to a schedule established by the Director of the Department of Planning and Development Services, or his or her designee. If a Residential Rental

Property is scheduled to be inspected during the ensuing year, then the Code Official, or his or her designee, shall notify the Owner/Licensee at the time of licensing or at the time of renewal. It shall be the obligation of the Owner/Licensee to pay the Inspection Fee at the time of application or renewal. It shall also be the obligation of the Owner/Licensee to contact the Department of Planning and Development Services during the month of licensing or renewal to schedule an inspection of any Qualified Vacant Dwelling Unit and to coordinate with the Code Official the time of inspection of any occupied Dwelling Unit. Failure to schedule and to complete an inspection shall be grounds for revocation of a Rental License or denial of a Renewal Rental License.

- (1) No Owner/Licensee shall be penalized where any inspection or re-inspection is delayed or does not occur as the result of the actions of any Tenant.
 - (2) The Owner/Licensee has no legal obligation to obtain from any Tenant, in behalf of the City, consent for the City to perform any inspection or re-inspection.
- (B) Any person serving as a Code Official and charged with inspecting Residential Rental Property shall, within two (2) years of being employed by the City, be accredited by the International Code Council and shall have received training to inspect Residential Rental Property in accordance with this Article.
- (C) In the year in which an Owner/Licensee's licensed Dwelling Units are scheduled for inspection, the Code Official shall inspect 10%, rounded up to the next whole number, not to exceed fifteen (15), of the total Dwelling Units licensed by the Owner/Licensee, that are not otherwise exempt from inspection hereunder.
- (1) If more than five (5) violations per Dwelling Unit are discovered on any Premises or in Dwelling Units inspected, then the Code Official may, upon not less than seventy-two (72) hours prior written notice, inspect an additional 10%, rounded up to the next whole number, not to exceed fifteen (15), of the total Dwelling Units licensed by the Owner/Licensee. The cost for any additional inspections shall be the same as the Inspection Fee established at Section 6-1311(a) and shall be assessed to the Owner/Licensee.
 - (2) If the Code Official finds recurring (identical) violations during the inspection of similarly-designed Dwelling Units of the same structure or apartment complex, then the Code Official shall make a reasonable effort to develop with the Owner/Licensee a plan of corrective action, to be approved by the Code Official, to verify that all recurring (identical) violations have been corrected within all similarly-designed Dwelling Units of the same structure or apartment complex, even if the number of violations found in any one similarly-designed Dwelling Unit does not exceed five (5) violations. If the Owner/Licensee fails to respond to the Code Official's request to provide a plan of corrective action to correct all recurring (identical) violations or the plan of corrective action is disapproved, then the Code Official shall require all other similarly designed Dwelling Units of the same structure or apartment complex to be inspected. A Notice of Violation shall be issued when

additional violations are verified. The cost of additional inspections shall be the same as the Inspection Fee established at Section 6-1311(a) and shall be assessed to the Owner/Licensee.

- (D) The inspection shall be performed using an Inspection Form substantially similar to the form attached as Appendix C to the Regulations, as promulgated the City Commission under Section 6-1323(A).
- (E) Residential Rental Property that qualifies as New Construction or as Major Reconstruction, as those terms are defined in this Article, shall be exempt from inspection for a period not to exceed six (6) years commencing on the date the Residential Rental Property passes its final building inspection. However, Residential Rental Property that qualifies as New Construction and Major Reconstruction must, upon completion of the construction or renovation, register each Dwelling Unit and obtain a Rental License for each Dwelling Unit in accordance with this Article.
- (F) It is the policy of the Governing Body that the Code Official make a reasonable effort to minimize any inconvenience caused to Tenants by inspections. To that end, the Code Official shall make a reasonable effort to prioritize the inspection of Qualified Vacant Dwelling Units, as identified by the Owner/Licensee prior to any inspection of Dwelling Units licensed by the Owner/Licensee.

6-1311

INSPECTION FEES; ADMINISTRATIVE FEES.

(Ord. 8840)

- (A) Except as may otherwise be provided, the Inspection Fee shall be \$50.00 per Dwelling Unit inspected. The Inspection Fee shall be remitted to the City ONLY in the year that the Dwelling Unit is scheduled for inspection in accordance with Section 6-1310. The Inspection Fee shall be paid at the same time as the Rental License Fee or Renewal License Fee.
- (B) Any Owner/Licensee that fails to appear for a scheduled inspection or re-inspection or any Owner/Licensee that refuses consent at a scheduled inspection shall be charged an Administrative Fee of \$25.00 per Dwelling Unit that was scheduled for inspection. A scheduled inspection or re-inspection may be rescheduled with no less than seven (7) days' prior notice to the Code Official. There shall be no fee or penalty assessed to any Owner/Licensee if any inspection or re-inspection is rescheduled within that seven-day period or is rescheduled due solely to the actions of any Tenant.
- (C) Any subsequent re-inspection, required after the initial re-inspection, shall be charged a Re-inspection Fee of \$50.00 per Dwelling Unit re-inspected. The Re-inspection Fee shall not apply to any re-inspection that is necessitated solely by the actions of any Tenant.

6-1312

INCENTIVE.

As an incentive to Licensees, if the Code Official reports no more than five (5) violations, as identified in Section 6-1314, per Dwelling Unit on any Premises and in Dwelling Units inspected, then all Residential Rental Property licensed by that Licensee shall be exempt from inspection under Section 6-1310 for a period of six (6) calendar years. (Such exemption shall not apply to any inspection made as the result of a complaint within that exempted period). Any Dwelling Unit or Residential Rental Property found to have more than five (5) violations, as identified in Section 6-1314, shall not qualify the Licensee for this incentive. (Ord. 8840)

6-1313

RIGHT OF ENTRY.
(Ord. 8840)

- (A) Absent exigent circumstances, whenever it is necessary to make an inspection or to enforce any provisions of this Article, or whenever the Code Official has reasonable suspicion that there exists in any Dwelling Unit or on any Residential Rental Property subject to this Article, any condition or violation that makes such Dwelling Unit or Residential Rental Property unsafe, dangerous, hazardous, or a public nuisance, the Code Official shall have the right, after giving seventy-two (72) hours' written notice to the Licensee, to enter the Premises or any Dwelling Unit thereon, at all reasonable times to inspect the same or to perform any duty imposed by this Article, provided that such entry is made in accordance with the law. At the time of inspection, if the Dwelling Unit or Residential Rental Property is occupied, then the Code Official shall first attempt to make contact with the Tenant, present proper credentials, and request entry. If the Dwelling Unit or Residential Rental Property is unoccupied, the Code Official is unable make contact with the Tenant, or the Code Official is denied consent to enter, then the Code Official shall have the right to seek entry by way of an administrative search warrant or by any other lawful means.
- (B) If the Code Official obtains from the Tenant written consent to perform any inspection or re-inspection, it shall be on a form substantially similar to that attached as Appendix D to the Regulations, as promulgated by the Governing Body in accordance with Section 6-1323(A).

6-1314

VIOLATIONS.
(Ord. 8840)

- (A) The following, if found during any inspection of a Dwelling Unit or Premises under this Article, shall be deemed a violation of this Article:
 - (1) The roof is unsound, including, but not limited to holes through the roof sheathing, large areas of missing shingles, or major leaks.
 - (2) There are defects affecting the structural integrity and safety of the building, including but not limited to the foundation or roof framing, exterior stairs, porches, decks, balconies, exterior ceilings, exterior walls, exterior floors, interior stairs, interior ceilings, or interior floors.
 - (3) There are defects affecting the structural integrity and safety of any chimney, such that it poses an imminent danger.
 - (4) Required handrails or guards for interior stairs, exterior stairs, porches, decks, or balconies are missing or structurally unsound.
 - (5) Windows are defective, including but not limited to missing window frames, sashes, or panes, such that the interior of the structure is exposed to the elements.
 - (6) Exterior doors are missing, will not close, or have inoperable locks.
 - (7) Openable windows within six (6) feet of grade are missing locks or have inoperable locks.

- (8) There exist large patches (or multiple areas) of fungus -- that is most likely mold -- on walls, ceilings, or floors.
- (9) The Dwelling Unit lacks minimum kitchen, cooking facilities, refrigerator and freezer, or food preparation areas.
- (10) The sanitary sewer service line is not functioning because it has backed up, collapsed, or otherwise failed.
- (11) Plumbing fixtures are not safely connected to the water supply; or required plumbing traps are not properly installed.
- (12) The water service line is not functioning properly because it is broken, leaking, or simply not delivering water.
- (13) The water heater is not operational or is missing temperature and pressure relief valves or, if such are installed, the temperature and pressure relief valves are damaged or leaking, or have spring-loaded operating mechanisms that are sticking or obstructed.
- (14) Gas-fired furnaces, water heaters, solid fuel-burning appliances, or gas-fired or electric clothes dryers are not properly vented or safely installed, or lack safety controls.
- (15) Combustion "makeup" air and minimum clearance requirements are not satisfied for gas furnaces or water heaters; or minimum clearance requirements are not satisfied for solid fuel-burning appliances.
- (16) Heating facilities are not operable, safe, or capable of maintaining temperatures of 68° Fahrenheit in habitable rooms.
- (17) Due to improper fusing, improper wiring or installation, deterioration, or damage, the electrical system constitutes a hazard to occupants, the Dwelling Unit, or the structure.
- (18) The electrical wiring is exposed, frayed, or otherwise unsafe as defined by the City Code.
- (19) Ground Fault Circuit Interrupter (GFCI) receptacle outlets are not provided in every bathroom and at kitchen countertops, and at least one grounded type or GGFCI protected receptacle outlet is not provided in any laundry area.
- (20) Receptacle outlets are missing appropriate faceplate covers.
- (21) Any exterior electrical panel is missing required ports or covers.
- (22) Required emergency escape/rescue windows are missing, fail to meet the minimum requirements for clear opening, height, or width, exceed the maximum finished sill distance above the floor, or are inoperable from the inside without the use of keys or tools.
- (23) Required smoke detectors for the Dwelling Unit are missing or inoperable.

- (24) Any structure containing three or more Dwelling Units that fails to provide, in each Dwelling Unit, one portable fire extinguisher, with a minimum rating of 1A 10BC that is less than one year old or that has been serviced within the past year.
 - (25) Any accessory structure, including but not limited to garages, carports, or sheds, is deteriorated or leaning to such an extent that it is in imminent danger of collapse.
 - (26) The Dwelling Unit does not comply with the occupancy requirements established in the Land Development Code (Chapter 20).
 - (27) The use of the property does not comply with requirements established in the Land Development Code (Chapter 20).
- (B) In cases where strict compliance with the foregoing standards are not possible, or where there are other practical difficulties limiting compliance, the Code Official shall have the authority and the discretion, where possible, to grant alternate compliance so long as such alternate compliance does not compromise or otherwise diminish health, life, or fire safety requirements. The details of any action granting such alternate compliance shall be recorded by the Code Official and shall be maintained in his or her files.

6-1315

OCCUPANCY LIMITS.

(Ord. 8840)

- (A) Unless otherwise exempted by an approved site plan or except as may otherwise be provided, occupancy limits for Dwelling Units in each zoning district are those established at Section 20-601(d) of the City Code.
 - (1) For the purposes of this Section, (A) children of a Tenant are not included in the Occupancy count and (B) a person shall be deemed to be living in a Dwelling Unit if he or she resides or sleeps at a Dwelling Unit a majority of that person's time.
- (B) Exceeding the Occupancy Limits for a Dwelling Unit shall be deemed a violation of this Article. However, exceeding the Occupancy Limits for a Dwelling Unit that occurs without the Licensee's knowledge shall not be a violation of this Article and shall not affect the Licensee's eligibility for the incentive provided in Section 6-1312.

6-1316

NOTICE OF VIOLATION.

(Ord. 8840)

- (A) Any Licensee of Residential Rental Property determined by the Code Official to be the cause of a violation of Section 6-1314 or 6-1315 shall be sent a Notice of Violation. The Notice of Violation shall be served on the Licensee or Resident Agent by hand-delivery or by first class mail addressed to the Licensee or any Resident Agent. The Notice of Violation shall state:
 - (1) The condition that has caused the alleged Violation(s);

- (2) Whether the Code Official seeks: (1) remediation, and the time that remediation must be completed; (2) to place a Licensee on probation, or to extend a pre-existing probationary period, or (3) to revoke the Rental License; and
 - (3) That the Licensee has fourteen (14) days from the date of the Notice of Violation to appeal the Notice of Violation by filing with the Department of Planning and Development Services a written Notice of Appeal in accordance with Section 6-1317.
- (B) Any Tenant of Residential Rental Property determined by the Code Official to be the cause of a violation of Section 6-1314 or 6-1315 shall be sent a Notice of Violation. The Notice of Violation shall be served on the Tenant by hand-delivery or by first class mail addressed to the Tenant. The Notice of Violation shall state:
- (1) The condition that has caused the alleged Violation(s);
 - (2) That, unless exigent circumstances require immediate action, the Tenant shall remediate the alleged Violation(s) within thirty (30) days of the date of the Notice of Violation; and
 - (3) That the Tenant has fourteen (14) days from the date of the Notice of Violation to appeal the Notice of Violation by filing with the Department of Planning and Development Services a written Notice of Appeal in accordance with Section 6-1317.
- (C) No Notice of Violation served on a Tenant shall affect a Licensee's eligibility for the incentive as provided in Section 6-1312, nor shall it otherwise increase the Licensee's fees and expenses. All such liability shall be the responsibility of the Tenant.

6-1317

APPEAL.

(Ord. 8840)

- (A) Any Owner/Licensee or Tenant aggrieved by the action of the Code Official in issuing a Notice of Denial or Notice of Violation shall have the right to appeal that action to the Building Code Board of Appeals. Such appeal shall be taken by filing with the Department of Planning and Development Services a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or Notice of Violation. The Notice of Appeal shall be in writing and shall set forth in sufficient detail why the Owner/Licensee or Tenant believes that the Notice of Denial or Notice of Violation was issued in error or why the proposed penalty is excessive, inappropriate, or unreasonable. After the Notice of Appeal is filed, the Building Code Board of Appeals shall set a time and place for a public hearing. Notice of Hearing shall be given to the Owner/Licensee or Tenant in the same manner as the Notice of Denial or Notice of Violation. To prevail on appeal, the Owner/Licensee or Tenant must prove that it is more probably true than not true that the Notice of Denial or Notice of Violation was issued in error or that the proposed penalty is excessive, inappropriate, or unreasonable. If it fails to take formal action at the public hearing, the Building Code Board of Appeals shall, no later than thirty (30) days after the public hearing, issue its final order, which shall be transmitted to the Owner/Licensee, or any Registered Agent, or to the Tenant in the same manner as the Notice of

Denial or Notice of Violation.

- (B) There shall be a \$25.00 Docketing Fee due and payable at the time that any Notice of Appeal is filed.
- (C) The filing of a timely Notice of Appeal under Section 6-1317(a) shall, absent exigent circumstances, stay any administrative enforcement action under this Article until the Building Code Board of Appeals has issued its final order.
- (D) The final order of the Building Code Board of Appeals shall be the final decision of the City. Any Owner/Licensee or Tenant aggrieved by a final decision of the Building Code Board of Appeals shall have the right, in accordance with state law, to appeal that final order to the District Court of Douglas County, Kansas.

6-1318

PROBATION.

The Code Official or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to place a Rental License on probation. The purpose of probation is to provide the Licensee a reasonable time to remediate any condition or conditions that cause(s) a violation of this Article. Probation may be conditioned to include reasonable reporting requirements, a reasonable time period to remediate violations, or other reasonable requirements necessary to bring the Residential Rental Property into compliance with the City Code. Failure to successfully complete any and all conditions of probation shall be grounds for revocation of the Rental License. (Ord. 8840)

6-1319

REVOCAATION.

The Code Official or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to revoke a Rental License. In making that determination, the Code Official or the Building Code Board of Appeals shall take into account the severity of the alleged violation and all other relevant mitigating and aggravating circumstances, including, but not limited to whether or not the Licensee has had other revocations or convictions under this Article. Any revocation shall be effective, and no Rental License shall be issued for the Dwelling Unit, until the Dwelling Unit is re-inspected by the Code Official and all violations have been remediated. (Ord. 8840)

6-1320

UNLAWFUL ACTS.

(Ord. 8840, Ord. 9110)

- (A) It shall be unlawful for any Person to Rent, or Let to any Tenant, on a Long-term basis, whether or not for consideration, a Dwelling Unit located on Residential Rental Property within the City without first (i) obtaining from the Department of Planning and Development Services a Rental License for that Dwelling Unit or without (ii) having a current, valid Rental License for that Dwelling Unit, as required by Section 6-1303 of this Article.
- (B) It shall be unlawful for any person to rent, lease, sublease, or let to a Tenant, on a Long-term basis, any Dwelling Unit located on Residential Rental Property within the City that has one or more of the violations listed at Section 6-1314 of this Article.
- (C) It shall be unlawful for any Licensee to knowingly violate Section 6-1315 of this Article.

- (D) It shall be unlawful for any Tenant living in a Dwelling Unit subject to this Article to cause the Dwelling Unit to be in violation of any provision of Section 6-1314 or Section 6-1315 of this Article. For the purposes of this section, "living in a Dwelling Unit" shall mean residing or sleeping at the Dwelling Unit a majority of the person's time.

6-1321

MUNICIPAL OFFENSE.

Engaging in any of the unlawful acts set forth at Section 6-1320 shall be a separate municipal offense. Any person violating a provision of Section 6-1320 of this Article shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$500.00 and a maximum fine of \$2,500.00 for each unlawful act. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine for any conviction under Section 6-1320(A), Section 6-1320(C), or Section 6-1320(D) for any violation of Section 6-1315 of the City Code. The municipal court judge shall also have the authority to order any person, upon adjudication of guilt or the entry of a plea of no contest hereunder, to comply with the terms of this Article. (Ord. 8840)

6-1322

GROUND FOR TERMINATION OF MUNICIPAL UTILITY SERVICES.

If, upon application by the Code Official and after a public hearing, the Governing Body finds by Resolution that continued occupancy or habitation of Residential Rental Property that is in violation of the provisions of this Article shall constitute a hazard to the public health, safety, and welfare and that the City's provision of water, sanitary sewer, and sanitation services is reasonably related to the ability to occupy or inhabit said Residential Rental Property, then the Governing Body shall direct the Code Official to serve a Certified Copy of the Resolution on the Owner/Licensee, any Resident Agent, and any Tenant(s) of the Residential Rental Property. After the Resolution is served, the Code Official shall have the authority to proceed with the disconnection of City water, sanitary sewer, and sanitation services at said Residential Rental Property. Disconnection of City services may only be ordered if the Governing Body finds specifically that disconnection of City services is necessary to deter occupation or habitation in a structure in which the public health, safety, or welfare is harmed or endangered by continued occupancy or habitation of the Residential Rental Property. (Ord. 8840)

6-1323

REGULATIONS.

(Ord. 8840)

- (A) In order to protect the health, safety, and welfare of the community, the Governing Body, shall have the power to promulgate, by resolution, Administrative Regulations governing administration of the Residential Rental Licensing program established by this Article. Any Regulations promulgated in accordance with this Article shall be dated and shall be available for inspection by the public at the City Clerk's Office during reasonable business hours. A Licensee shall receive a copy of the Regulations at the time of the issuance of Rental License(s).
- (B) Licensees shall comply with all Regulations promulgated hereunder.
- (C) All Regulations promulgated hereunder shall be consistent with the terms of the Article. In the event of any inconsistency or ambiguity, the terms of this Article shall control and supersede the Regulations.

6-1324

REVIEW OF FEES.

The Governing Body shall, from time to time, at its discretion, review the Rental License Fees, Inspection Fees, and Fines established by this Article and shall adjust

them as may be necessary to fulfill the goals of this Article and the Governing Body's goal that this program be operated on a revenue-neutral basis. Before increasing the Rental License Fees or Inspection Fees established by this Article, the Governing Body shall first obtain performance audits, financial data, and other quantifiable records, establishing that such increase is necessary to attain its goal of maintaining the program on a revenue-neutral basis. (Ord. 8840)

6-1325

ANNUAL STATUS REPORT.

The Governing Body hereby directs the Code Official to keep and to maintain adequate financial records, as well as records of licenses issued, inspections, inspection reports, enforcement actions, administrative actions, criminal actions, and other reports related to the administration of the program established by this Article. The Governing Body also directs the Code Official to prepare for its review an annual status report regarding the administration of the program established by this Article. Said status report shall encompass one calendar year and shall be submitted to the Governing Body no later than February 14 of the succeeding year, unless before that date the Governing Body grants a reasonable extension of time to submit the annual status report. (Ord. 8840)

6-1326

EXEMPTIONS.

(Ord. 8840, Ord. 9110)

The provisions of this Article shall not apply to the following:

- (A) Dwelling Units occupied by the Owner or solely by the Owner's immediate family (related by blood, marriage, or adoption).
- (B) In the case where the Owner is not a natural person, Dwelling Units occupied by a principal of the Owner.
- (C) Bed and Breakfasts, as that term is defined at Section 20-1763(2) of the City Code, as amended.
- (D) Campgrounds, as that term is defined at Section 20-1763(1) of the City Code, as amended.
- (E) Group Homes or Adult Care Homes, as those terms are defined at Section 20-1701 of the City Code, as amended.
- (F) Assisted Living, as that term is defined at Section 20-1701 of the City Code, as amended.
- (G) Extended Care Facility, Dependent Living Facility, or Nursing Care Facility, as those terms are defined at Section 20-1701 of the City Code, as amended.
- (H) Extended Stay Lodging, as that term is defined at Section 20-1701 of the City Code, as amended.
- (I) Greek Housing, including fraternity houses and sorority houses, as that term is defined at Section 20-1701 of the City Code, as amended.
- (J) Dormitory Housing, as that term is defined at Section 20-1701 of the City Code, as amended.
- (K) Hotels or motels.

- (L) Any structure or building located on Premises owned by the United States of America, the state of Kansas, Douglas County, Kansas, the City, the University of Kansas, or Haskell Indian Nations University.
- (M) Any structure or building located on the Premises of any Religious Assembly Use, as that term is defined at Section 20-1753 of the City Code, as amended, except that any Dwelling Units owned by a religious institution, located off the Premises and not part of the Religious Assembly Use shall not be exempt hereunder.
- (N) Owners of Section 8 housing, or other housing subsidized by the State or the United States, that is regularly inspected as part of the subsidy program and is being rented, leased, subleased, let, or otherwise being lived in by persons other than the Owner, must register each such Dwelling Unit and obtain a Rental License therefor in accordance with this Article. However, Owners of qualifying Dwelling Units are exempt from paying the Rental License Fee under Section 6-1304 of this Article for qualifying Dwelling Units and such Dwelling Units are exempt from Inspections under Section 6-1310 of this Article.

6-1327

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8692; Ord. 8840, Ord. 9110)

ARTICLE 13A. SHORT-TERM RESIDENTIAL RENTAL PROPERTY CODE

6-13A01

SHORT TITLE; PURPOSE.

(Ord. 9560)

- (A) This Article shall be known as the City's "Short-term Residential Rental Property Code."
- (B) The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the Renting of Dwelling Units, or portions thereof, on Short-term Residential Rental Property within the City.

6-13A02

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 9560)

- (A) **"Accessory Dwelling Unit"** shall mean a Dwelling Unit that is located on the same Lot as, but is incidental to a Principal Building or a Principal Use, where the Principal Building or Principal Use is a Dwelling Unit.
- (B) **"Code Official"** shall mean the Code Enforcement Officer, anyone fulfilling the duties of the Code Enforcement Officer on either a temporary or permanent basis, or any designee of the City Manager, the Director of the Department of Planning and Development Services, or the Code Enforcement Officer.
- (C) **"Dwelling Unit"** shall mean one room, or a suite of two or more rooms,

designed for or used for living and sleeping purposes and having only one kitchen.

- (D) **"Licensee"** shall mean any Owner or Person licensed by the City under this Article to Rent or Let a Dwelling Unit, or portion thereof, on a Short-term basis.
- (E) **"Long-term"** shall mean a period of time that is equal to or greater than (30) days in length.
- (F) **"Lot"** shall mean a contiguous parcel or tract of land, located within a single block fronting on a public street, that is occupied or utilized or that is designated to be occupied or utilized as a single unit, regardless of how it is owned or controlled. A Lot may or may not correspond with a Lot shown on the official tax maps of Douglas County, Kansas, or on an recorded subdivision, plat, or deed.
- (G) **"Non-owner Occupied"** shall mean any Dwelling Unit in which the Owner resides less than 183 days per calendar year.
- (H) **"Owner"** shall mean the individual or individual(s), natural or corporate, in possession of lawful title to real property. As used in this Article, Owner may also include any authorized agent of the possessor of lawful title to real property. For the purposes of this Article, the term "Owner" may be used interchangeably with the terms "Person" and "Licensee."
- (I) **"Owner Occupied"** shall mean any Dwelling Unit in which the Owner resides for more than 182 days per calendar year.
- (J) **"Person"** shall mean any natural person, business association, or business entity, including but not limited to corporation, partnership, limited liability company, sole proprietorship, political subdivision of the State or other governmental entity, public or private agency, utility, or any other legal entity, or any successor or assign of any of the foregoing. Also, for the purposes of this Article, the term "Person" may be used interchangeably with the terms "Owner" and "Licensee."
- (K) **"Premises"** shall mean a Lot or contiguous Lots under common ownership, together with all buildings, structures, and appurtenances existing thereon.
- (L) **"Principal Building"** shall mean a building in which the Principal Use of the Premises is located. In any district zoned residential, the Principal Use shall be deemed to be a Dwelling Unit.
- (M) **"Principal Use"** shall mean the primary use for which a Premises or Structure is utilized, as distinguished from a secondary or accessory use.
- (N) **"Re-inspection"** shall mean any subsequent inspection conducted for the purpose of verifying that any violations reported during any inspection have been remediated.
- (O) **"Rent"** shall mean, for the purposes of this Article, to provide or to offer for possession or occupancy a Dwelling Unit, or any portion thereof, for a Short-term basis, to a Transient Guest for consideration, pursuant to a written, oral, or implied agreement.
- (P) **"Resident Agent"** shall mean any person or business entity, however

organized, appointed by an Owner, who shall be responsible for compliance with this Article and who shall have the authority to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.

- (Q) **“Short-term”** shall mean a period of time that is less than thirty (30) days in length.
- (R) **“Short-term Rental License”** shall mean any license issued by the City under this Article for the Short-term Renting of Dwelling Units, or portions thereof, on Short-term Residential Rental Property within the City.
- (S) **“Short-term Residential Rental Property”** shall mean any Premises having one or more Dwelling Units, or portions thereof, that are Rented, on a Short-term basis, to one or more Transient Guests.
- (T) **“Transient Guest”** shall mean any person who occupies a Dwelling Unit, or portion thereof, on a Short-term basis, other than the Owner, the Owner's immediate family (related by blood, marriage, or adoption), or any person residing with the Owner on Short-term Residential Rental Property.

6-13A03

SHORT-TERM RENTALS PERMITTED; RESTRICTIONS.
(Ord. 9560)

- (A) Pursuant to Section 20-402 of the City Code, as amended, and subject to compliance with the terms of this Article, the use of any Dwelling Unit, or portion thereof, on Owner Occupied Short-term Residential Rental Property is permitted within the City as a Transient Accommodation use within all housing types. Each Owner Occupied Short-term Residential Rental Property must be licensed and inspected under this Article prior to the commencement of its use as a Short-term Residential Rental Property and must, at all times, comply with all provisions of this Article, including the occupancy limits established for the zoning district in which it is located.
- (B) Pursuant to Section 20-402 of the City Code, as amended, and subject to issuance of a Special Use Permit and compliance with the terms of this Article, the use of any Dwelling Unit, or portion thereof, on Non-owner Occupied Short-term Residential Rental Property is permitted within the City as a Transient Accommodation use within all housing types. Each Non-owner Occupied Short-term Residential Rental Property must be issued a Special Use Permit under Chapter 20 of the City Code, as amended, and must be licensed and inspected under this Article prior to the commencement of its use as a Short-term Residential Rental Property; it must also, at all times, comply with all provisions of this Article, including the occupancy limits established for the zoning district in which it is located.
- (C) It shall be unlawful for any Owner or Person to use an Accessory Dwelling Unit as Short-term Residential Rental Property.

6-13A04

SHORT-TERM RENTAL LICENSE REQUIRED.
(Ord. 9560)

- (A) No Owner or Person shall Rent to a Transient Guest, on a Short-term basis, a Dwelling Unit, or portion thereof, located on Short-term Residential Rental Property within the City, unless otherwise exempted by this Article, without first (i) obtaining from the Department of Planning and Development

Services a Short-term Rental License for that Dwelling Unit and without (ii) having a current, valid Short-term Rental License for that Dwelling Unit.

- (B) In the case of multiple Owners of any Dwelling Unit subject to this Article, it shall be sufficient for any one of the Owners to have obtained a Short-term Rental License for the Dwelling Unit.

6-13A05

SHORT-TERM RENTAL LICENSE FEES.

All Owners or Persons obtaining a Short-term Rental License under this Article shall pay to the City an annual Short-term Rental License Fee of \$17.00. The Short-term Rental License Fee shall be due at the time of application for or renewal of a Short-term Rental License. The Short-term Rental License Fee shall not be prorated or refunded upon denial or revocation, but may be pro-rated for partial years. (Ord. 9560)

6-13A06

SHORT-TERM RENTAL LICENSE APPLICATION.

Application for a Short-term Rental License shall be made to the Department of Planning and Development Services on a form provided by the Department for that purpose. In addition, the Owner or Resident Agent shall complete the application in full, in writing, and shall provide the following information: (Ord. 9560)

- (A) The address(es) of the Dwelling Unit(s).
- (B) The Owner's name, address, telephone number, cellular telephone number, and e-mail address, as applicable.
- (C)
 - (1) If the Owner has a local address, within forty miles of the City, then he or she MAY appoint a person or management company, also within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, if any, and telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have actual authority to perform certain tasks and to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
 - (2) If the Owner does not have a local address, within forty miles of the City, then he or she MUST appoint a person or management company, located within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, if any, and telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have actual authority to perform certain tasks and to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
- (D) A statement that the Owner, Resident Agent, or an employee thereof, has sent, through the United States mail, on a form created by the Code Official for that purpose, notice to all owners of record within 200 feet of the property proposed to be used by the Owner as Short-term Rental Residential Property.
- (E) A statement that the Owner has no employees, or, if the Owner has

employees, certificates of worker's compensation insurance establishing that the Owner has workers' compensation insurance and in the amounts required by law.

- (F) A Statement whether the Short-term Residential Rental Property will be Owner Occupied or Non-owner Occupied and, if Non-owner Occupied, proof that the Owner has obtained a Special Use Permit for such use.
- (G) A statement that the Owner, Resident Agent, or an employee thereof will not, in renting or leasing a Dwelling Unit, or portion thereof, to any person or persons on a Short-term basis, discriminate against any person or persons on the basis of race, color, sex, religion, national origin, ancestry, disability, sexual orientation, sexual identity, gender identity, or age.
- (H) The Owner's or Resident Agent's signature and the date of the application. In order for the City to accept a Resident Agent's signature, the application must be accompanied by the Owner's written, notarized authorization granting the Resident Agent actual authority to sign documents and to act in behalf of the Owner hereunder.

6-13A07

SHORT-TERM RENTAL LICENSE ISSUANCE; DENIAL.

(Ord. 9560)

- (A) The Code Official shall review each application for a Short-term Rental License. Within thirty (30) days of the application, the Code Official shall approve the application and shall issue to the Owner a Short-term Rental License, unless:
 - (1) The application is incomplete; or
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
- (B) If the application is determined to be deficient because it is incomplete under Section 6-13a07(a)(1), including the failure to pay the Short-term Rental License Fee and any Inspection Fee, the Code Official shall give notice to the Owner and permit the Owner fourteen (14) days therefrom within which to provide a completed application.
- (C) If the application is denied under Section 6-13A07(a)(2), or the Owner has failed to complete the application within the fourteen-day period of Section 6-13A07(b), then the Code Official shall deny the application by giving Notice of Denial to the Owner or any Resident Agent. Notice of Denial shall be in writing, shall be mailed to the Owner or any Resident Agent, shall inform the Owner of the reason for denial with specificity, including all documentation supporting any allegation of fraud or material misrepresentation, and shall state that the Owner has fourteen (14) days from the date of the Notice of Denial in which to file with the Department of Planning and Development Services any written Notice of Appeal in accordance with Section 6-13A17.
- (D) The Code Official shall maintain a copy of the Notice of Denial in his or her files.

6-13A08

SHORT-TERM RENTAL LICENSE APPEARANCE; MAINTENANCE

(Ord. 9560)

- (A) The Short-term Rental License shall be on official City of Lawrence, Kansas, Planning and Development Services letterhead and shall include the Short-term Rental License number, the name of the Licensee, the address of the Dwelling Unit, and the expiration date of the Short-term Rental License.
- (B) The Short-term Rental License shall be maintained by the Licensee on the Premises, if possible, or at the Licensee's principal place of business, and shall be made available, upon request, to any Transient Guest of the Dwelling Unit, or portion thereof, or to the Code Official.

6-13A09

SHORT-TERM RENTAL LICENSE TERM.

Unless revoked or otherwise terminated in the interim, the Short-term Rental License shall be valid from the time that it is issued until it expires at 11:59 p.m. on December 31 of the then-current year. (Ord. 9560)

6-13A10

SHORT-TERM RENTAL LICENSE RENEWAL.

In order to retain a valid Short-term Rental License for a Dwelling Unit, the Licensee must renew the Short-term Rental License on an annual basis. At least eight weeks before a Short-term Rental License expires, the Code Official will mail to a Licensee or any Resident Agent a renewal Notice. To renew a Short-term Rental License, the Licensee must, BEFORE December 31 of that year: (a) remit to the City the annual Short-term Rental License Fee, in the amount required by Section 6-13A05 and any Inspection Fee in the amount required by Section 6-13A11; (b) return the renewal stub to the Department of Planning and Development Services; (c) submit proof that, for the preceding year, the Licensee has paid in full all state retail sales tax, all local retail sales tax, and any transient guest tax that may be applicable; and (d) the Licensee's Dwelling Unit(s) must have, unless otherwise exempted by this Article, have passed its (or their) most recent inspection. Failure to comply with each of the foregoing shall be grounds for denial of the renewal of a Short-term Rental License. (Ord. 9560)

6-13A11

INSPECTIONS.

(Ord. 9560)

- (A) All Short-term Residential Rental Property shall be inspected by the Code Official annually. It shall be the obligation of the Owner/Licensee to pay the Inspection Fee at the time of application or renewal. It shall also be the obligation of the Owner/Licensee to contact the Department of Planning and Development Services during the month of licensing or renewal to schedule an inspection. Failure to schedule and to complete an inspection shall be grounds for revocation of a Short-term Rental License or denial of a Renewal Short-term Rental License.
- (B) The inspection shall be performed using an Inspection Form developed and used the Department of Planning and Development Services for that purpose and shall be similar in form to that used for the inspection of Long-term Residential Rental Property.
- (C) Any violations of 6-13A14 shall require a Re-inspection to verify that all violations have been remediated.

6-13A12

INSPECTION FEES; ADMINISTRATIVE FEES.

(Ord. 9560)

- (A) Except as may otherwise be provided, the Inspection Fee shall be \$50.00 per Dwelling Unit inspected. The Inspection Fee shall be paid at the same time as the Short-term Rental License Fee is paid at the time of licensing or

renewal.

- (B) Any Owner/Licensee that fails to appear for a scheduled inspection or re-inspection or any Owner/Licensee that refuses consent at a scheduled inspection shall be charged an Administrative Fee of \$50.00 per Dwelling Unit that was scheduled for inspection. A scheduled inspection or re-inspection may be rescheduled with no less than seven (7) days' prior notice to the Code Official. There shall be no fee or penalty assessed to any Owner/Licensee if any inspection or re-inspection is rescheduled within that seven-day period.
- (C) Any subsequent re-inspection, required after the initial re-inspection, shall be charged a Re-inspection Fee of \$50.00 per Dwelling Unit re-inspected.

6-13A13

RIGHT OF ENTRY.

Absent exigent circumstances, whenever it is necessary to make an inspection or to enforce any provisions of this Article, or whenever the Code Official has reasonable suspicion that there exists in any Dwelling Unit on any Short-term Residential Rental Property subject to this Article, any condition or violation that makes such Dwelling Unit or Short-term Residential Rental Property unsafe, dangerous, hazardous, or a public nuisance, the Code Official shall have the right, after giving seventy-two (72) hours' written notice to the Licensee, to enter the Premises or any Dwelling Unit thereon, at all reasonable times to inspect the same or to perform any duty imposed by this Article, provided that such entry is made in accordance with the law. At the time of inspection, if the Dwelling Unit or Short-term Residential Rental Property is occupied, then the Code Official shall first attempt to make contact with the occupant, present proper credentials, and request entry. If the Dwelling Unit or Short-term Residential Rental Property is unoccupied, the Code Official is unable make contact with the occupant, or the Code Official is denied consent to enter, then the Code Official shall have the right to seek entry by way of an administrative search warrant or other lawful means. (Ord. 9560)

6-13A14

VIOLATIONS; ALTERNATE COMPLIANCE.

(Ord. 9560)

- (A) It shall be deemed a violation of this Article for any Short-term Residential Rental Property to be in violation of any provision of the City's Property Maintenance Code, codified as amended at Chapter 9, Article 6 of the City Code.
- (B) In cases where strict compliance with the Property Maintenance Code is not possible or where there are practical difficulties that limit the Short-term Residential Rental Property's ability to comply strictly therewith, the Code Official shall have the authority and the discretion to grant alternate compliance, if and only if:
 - (i) alternate compliance is possible; and
 - (ii) alternate compliance does not compromise or diminish life, health, safety, or fire safety requirements.
- (C) The details of any action granting alternate compliance shall be duly recorded by the Code Official and shall be maintained in his or her files.

6-13A15

OCCUPANCY LIMITS.

(Ord. 9560)

- (A) Unless otherwise exempted by an approved site plan or except as may otherwise be provided, occupancy limits for Dwelling Units in each zoning

district shall be those established at Section 20-601(d) of the City Code, as amended.

(1) For the purposes of this Section, minor children are not included in the Occupancy count.

(B) It shall be unlawful for any Person to permit or to cause any Dwelling Unit, licensed under this Article, to exceed the occupancy limits prescribed for that Dwelling Unit under Section 20-601(d) of the City Code, as amended.

6-13A16

NOTICE OF VIOLATION.

(Ord. 9560)

(A) Any Licensee of Short-term Residential Rental Property who, in the determination of the Code Official, violates any provision of this Article or the City Code shall be sent a Notice of Violation. The Notice of Violation shall be served on the Licensee or Resident Agent by hand-delivery, by electronic mail, or by first class mail addressed to the Licensee or any Resident Agent. The Notice of Violation shall state:

(1) The condition that has caused the alleged Violation(s);

(2) Whether the Code Official seeks: (1) remediation, and the time that remediation must be completed; (2) to place a Licensee on probation, or to extend a pre-existing probationary period, or (3) to revoke the Short-term Rental License; and

(3) That the Licensee has fourteen (14) days from the date of the Notice of Violation to appeal the Notice of Violation by filing with the Department of Planning and Development Services a written Notice of Appeal in accordance with Section 6-13A17.

6-13A17

APPEAL.

(Ord. 9560)

(A) Any Person aggrieved by the action of the Code Official in issuing a Notice of Denial or Notice of Violation shall have the right to appeal that action to the Building Code Board of Appeals. Such appeal shall be taken by filing with the Department of Planning and Development Services a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or Notice of Violation. The Notice of Appeal shall be in writing and shall set forth in sufficient detail why the Person believes that the Notice of Denial or Notice of Violation was issued in error or why the proposed penalty is excessive, inappropriate, or unreasonable. After the Notice of Appeal is filed, the Building Code Board of Appeals shall set a time and place for a public hearing. Notice of Hearing shall be given to the appellant in the same manner as the Notice of Denial or Notice of Violation. To prevail on appeal, the appellant must prove that it is more probably true than not true that the Notice of Denial or Notice of Violation was issued in error or that the proposed penalty is excessive, inappropriate, or unreasonable. If it fails to take formal action at the public hearing, the Building Code Board of Appeals shall, no later than thirty (30) days after the public hearing, issue its final order, which shall be transmitted to the appellant, or any Registered Agent, or to the Tenant in the same manner as the Notice of Denial or Notice of Violation.

(B) There shall be a \$50.00 Docketing Fee due and payable at the time that any Notice of Appeal is filed.

- (C) The filing of a timely Notice of Appeal under Section 6-13A17(a) shall, absent exigent circumstances, stay any administrative enforcement action under this Article until the Building Code Board of Appeals has issued its final order.
- (D) The final order of the Building Code Board of Appeals shall be the final decision of the City. Any Person aggrieved thereby shall have the right, in accordance with state law, to appeal that final order to the District Court of Douglas County, Kansas.

6-13A18

PROBATION.

The Code Official or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to place a Short-term Rental License on probation. The purpose of probation is to provide the Licensee a reasonable time to remediate any condition or conditions that cause(s) a violation of this Article. Probation may be conditioned to include reasonable reporting requirements, a reasonable time period to remediate violations, or other reasonable requirements necessary to bring the Short-term Residential Rental Property into compliance with this Article or the City Code. Failure to successfully complete any and all conditions of probation shall be grounds for revocation of the Short-term Rental License.

6-13A19

REVOCAION.

The Code Official or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to revoke a Short-term Rental License. In making that determination, the Code Official or the Building Code Board of Appeals shall take into account the severity of the alleged violation and all other relevant mitigating and aggravating circumstances, including, but not limited to whether or not the Licensee has had other revocations or convictions under this Article. Any revocation shall be effective immediately, and no Short-term Rental License shall be issued for the Dwelling Unit, until the Dwelling Unit is re-inspected by the Code Official and all violations of this Article or City Code have been remediated. (Ord. 9560)

6-13A20

HABITUAL VIOLATORS.

Any Person or Owner who has had more than 3 revocations under this Article shall be deemed an habitual violator and shall lose the privilege to operate any property within the City as Short-term Residential Rental Property. All applications for a Short-term Residential Rental License or any renewal thereof submitted by an habitual violator shall be denied by the Code Official as such and the applicant shall be issued a Notice of Denial. The applicant may appeal any such Notice of Denial in accordance with Section 6-13A17 of this Article. (Ord. 9560)

6-13A21

UNLAWFUL ACTS.

(Ord. 9560)

- (A) It shall be unlawful for any person to Rent or Let to any Transient Guest, a Dwelling Unit, or any portion thereof, located on Short-term Residential Rental Property within the City without first (i) obtaining from the Department of Planning and Development Services a Short-term Rental License as required by Section 6-13A04 of this Article and without (ii) having a current, valid Short-term Rental License.
- (B) It shall be unlawful for any Person to Rent or Let to any Transient Guest, a Dwelling Unit, or any portion thereof, located on Short-term Residential Rental Property within the City that is in derogation of the City's Property Maintenance Code, codified as amended at Article 6, Chapter 9 of the City Code, in violation of Section 6-13A14 of this Article.

- (C) It shall be unlawful for any Person to knowingly violate Section 6-13A15 of this Article.

6-13A22

MUNICIPAL OFFENSE.

Engaging in any of the unlawful acts set forth at Section 6-13A21 shall be a separate municipal offense. Any person violating a provision of Section 6-13A21 of this Article shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$500.00 and a maximum fine of \$2,500.00 for each unlawful act. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine for any conviction under Section 6-13A21(a) or Section 6-13A21(c). The municipal court judge shall also have the authority to order any person, upon adjudication of guilt or the entry of a plea of no contest hereunder, to comply with the terms of this Article. (Ord. 9560)

6-13A23

REGULATIONS.

(Ord. 9560)

- (A) In order to protect the health, safety, and welfare of the community, the Governing Body, shall have the power to promulgate, by resolution, Administrative Regulations governing administration of the City Short-term Residential Rental Property Code established by this Article. Any Regulations promulgated in accordance with this Article shall be dated and shall be available for inspection by the public at the City Clerk's Office during reasonable business hours. A Licensee shall receive a copy of the Regulations at the time of the issuance of Short-term Rental License(s).
- (B) Licensees shall comply with all Regulations promulgated hereunder.
- (C) All Regulations promulgated hereunder shall be consistent with the terms of the Article. In the event of any inconsistency or ambiguity, the terms of this Article shall control and supersede the Regulations.

6-13A24

EXEMPTIONS.

The provisions of this Article shall not apply to the following: (Ord. 9560)

- (A) Bed and Breakfasts, as that term is defined at Section 20-1763(2).
- (B) Campgrounds, as that term is defined at Section 20-1763(1).
- (B) Extended Stay Lodging, as that term is defined at Section 20-1701.
- (D) Dormitory Housing, as that term is defined at Section 20-1701.
- (E) Hotels or motels.
- (F) Any structure or building located on Premises owned by the United States of America, the state of Kansas, Douglas County, Kansas, the City, the University of Kansas, or Haskell Indian Nations University.
- (G) Any structure or building located on the Premises of any Religious Assembly Use, as that term is defined at Section 20-1753, except that any Dwelling Units owned by a religious institution, located off the Premises and not part of the Religious Assembly Use shall not be exempt hereunder.

6-13A25

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 9560)

ARTICLE 14. LICENSED STREET VENDORS

6-1401

STREET VENDOR DEFINED.

Street vendor shall mean and include any person authorized to sell food, flowers, or non-alcoholic beverages from a cart or stand temporarily located on certain sidewalks of this City as authorized by this Article of the Code. (Ord. 7616)

6-1402

STREET VENDOR LICENSE.

Upon application to the City Clerk, the City Commission may grant a street vendor license, subject to the provisions of this Article, to use one of the sidewalks in the following locations for the sale of food, flowers or non-alcoholic beverages, provided that another street vendor is not already licensed to use that location (Ord. 7616, Ord. 8516)

- (1) Either southwest or northeast corner of 7th and Massachusetts Streets;
- (2) Either southwest or northeast corner of 8th and Massachusetts Streets;
- (3) Either southwest or northeast corner of 9th and Massachusetts Streets;
- (4) Either southwest or northeast corner of 10th and Massachusetts Streets;
- (5) West side of the 800 block of Massachusetts Street near the center block cross walk area.

The governing body reserves the right to reject any or all applications and to restrict or prohibit the use of the right-of-way at the above locations at any time.

6-1403

LICENSE APPLICATION.

(Ord. 7616)

- (A) An applicant for a street vendor license shall present a statement of intention to all businesses within seventy-five (75) feet of the location for which the applicant seeks the license. The applicant shall obtain said business owners' signatures of approval and submit the signatures to the City Clerk. The applicant shall instruct said business owners to submit in writing to the City Clerk all comments regarding the applicant's statement of intention. The applicant shall provide the names and addresses of each business owner the applicant notified pursuant to this paragraph to the City Clerk.
- (B) An applicant for a street vendor license shall provide proof of current liability insurance issued by a company authorized to issue insurance in the State of Kansas, insuring the applicant, and the City of Lawrence as an additionally named insured, in an amount of not less than \$500,000.00 for a single incident, for any liability associated with the failure of the licensee, its employees, agents, servants, invitees, and patrons to exercise due care and diligence in the use of the sidewalk.
- (C) An applicant for a street vendor license shall provide proof of a Kansas Retail Sales Tax Number.

- (D) An applicant for a street vendor license shall submit a photograph or drawing of the proposed cart or stand with the application.
- (E) Applications for a street vendor license shall be accepted by the City Clerk's office, during regular business hours, Monday through Friday, throughout the year.
- (F) The fee for the license required by this Article shall be as prescribed by Section 6-108.18.

6-1404

LICENSES VALID FOR ONE YEAR; RENEWALS.

(Ord. 7616)

- (A) A licensed street vendor shall be limited to one licensed location per year.
- (B) A street vendor license shall be valid for one calendar year (January 1 through December 31). All licenses obtained on January 1st or at anytime thereafter shall expire on December 31st of the same year. Non-use of the approved location for a period of thirty (30) days or longer anytime between April 1st and October 31st of the year shall constitute a revocation of the license.
- (C) A license may be renewed by making application to the City Clerk on forms provided for that purpose from January 1 to January 31st of each year. The fees for the renewal of a license shall be as prescribed by Section 6-108.18.

6-1405

RESTRICTIONS ON SIZE OF CART, STAND, SIGNS.

(Ord. 7616)

- (A) The street vendor's cart or stand shall not be more than eight (8) feet high, not including the height of an umbrella attached to the cart or stand. Any umbrella attached to the cart or stand shall not damage or interfere with any street trees. The size of a cart or stand, excluding the hitch, shall not exceed forty (40) square feet.
- (B) Signs shall be limited to one per location. Signs shall conform to the Downtown Design Guidelines and shall be approved by the Historic Resources Commission. A sign permit shall be obtained from the Neighborhood Resources Department.

6-1406

DUTIES OF STREET VENDORS.

(Ord. 7616)

- (A) The licensed street vendor shall sell only those products (food, flowers or non-alcoholic beverages) specified on the vendor's street vendor license application and for which the license has been issued.
- (B) A licensed street vendor must prove current State of Kansas Health Department Certificate of Approval if selling food or non-alcoholic beverages, and must prove any other licenses or certificates that are required by the State of Kansas.
- (C) A licensed street vendor, before using any heating devices at the licensed location, shall be inspected by the Lawrence-Douglas County Fire and Medical Department and receive approval from them for the use of said device.

- (D) The licensed street vendor, or his or her designee, shall not operate or have their cart or stand at the licensed location between the hours of 2:30 a.m. and 7:00 a.m. (Ord. 8516)
- (E) No more than two (2) employees of the licensed street vendor shall be at the licensed location at one time.
- (F) All sales shall be confined to the approved, licensed location.
- (G) The licensed street vendor shall use only non-breakable containers at the licensed location.
- (H) The licensed street vendor shall be responsible for cleanup of all refuse generated by the business and/or its customers at the licensed location. (Ord. 8516)

6-1407

DISTURBING THE PEACE.

No street vendor, nor any person in his or her behalf, shall shout, make an outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound amplifying system for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. 7616)

6-1408

REVOCAION, SUSPENSION OF LICENSE.

The City Manager or designee, the Chief of Police or the Codes Enforcement Manager, may suspend or revoke a license issued under this Article if: (Ord. 7616)

- (1) The licensed street vendor violates any provision of this Code or other ordinance of the City governing the activities permitted by the license; or,
- (2) The license was obtained by fraud or misrepresentation.

6-1409

APPEAL.

Any person may appeal to the City Commission from the denial, suspension or revocation of a street vendor license. Notice of such appeal must be given in writing to the City Clerk within fifteen (15) city business days of the denial, suspension or revocation. (Ord. 7616)

6-1410

PENALTY.

Any person who violates the requirements of this Article shall, upon conviction, be fined not less than \$20.00 nor more than \$500.00. Each day that a person violates the requirements of this Article shall constitute a separate offense. (Ord. 7616)

ARTICLE 15 TEMPORARY SPECIAL EVENTS

6-1501

TEMPORARY SPECIAL EVENTS: PURPOSE AND INTENT.

The purpose and intent of this section is to provide for the temporary use of private property for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this section to

protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the proposed use. Finally, it is the intent of this section to preserve the public health, safety and convenience. (Ord. 8089)

6-1502

SPECIAL EVENT DEFINED.

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by the zoning regulations, for one or more of the following types of activities: (Ord. 8089, Ord. 8665)

Type 1: Fundraising or non-commercial events for nonprofit religious, educational or community service organizations; including any structures in conjunction with the event.

Type 2: Promotional activities or devices intended to attract attention to a specific place, business, organization, event, or district, such as outdoor entertainment or display booths.

Type 3: Outdoor commercial activities intended to sell, lease, rent or promote specific merchandise or services such as a tent sale, farmers market or product demonstration, or indoor seasonal events which will draw additional visitors to a property such as haunted houses, and including licensed transient merchants requiring use of a tent or structure.

Type 4: Christmas tree sales.

Type 5: Public events intended primarily for entertainment or amusement, such as concerts or festivals.

6-1503

SPECIAL EVENTS NOT REQUIRING A PERMIT.

Special events meeting the Type 1 definition are allowed without a Temporary Special Event Permit provided all of the following standards are met: (Ord. 8089, Ord. 8665)

(A) Special events meeting the Type 1 definition are allowed without a Temporary Special Event Permit provided all of the following standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be subject to a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the event.
3. The special event shall be restricted to hours of operation between 8:00 a.m. and 9:00 p.m., to a maximum duration of five (5) days, and to a maximum frequency for similar events of two (2) times per calendar year.
4. Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on a public right-of-way.

(B) Mobile food vending, as licensed under Section 6-1701 *et seq.* of the Code of the City of Lawrence, shall not be subject to a Temporary Special Event

Permit, provided that no more than two (2) mobile food units are operating on the same property simultaneously.

6-1504

SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT.

Special events meeting the following standards may be issued a Temporary Special Event Permit administratively by the Planning Director. Any applicant denied a Temporary Special Event Permit shall be notified in writing of the reason(s) for denial and of the opportunity to appeal the denial to the City Commission. No more than four (4) Temporary Special Event Permits per calendar year shall be issued administratively for any location. Type 4 events do not count against the permit limit. (Ord. 8089, Ord. 8665, Ord. 9487)

(A) Special events meeting the Type 2 or Type 3 definition, and Type 1 events not meeting the standards outlined in Section 6-1503, may be permitted administratively by the Planning Director, subject to prior review and approval by the Municipal Services and Operations Department, Code Enforcement Division, Police Department and Fire Department. No administrative Temporary Special Event Permit shall be issued unless all of the following standards are met:

1. An application and site plan indicating the proposed use and any temporary structures or displays are submitted, and a fee paid in accordance with Section 6-1506.
2. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and specific location of event.
3. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself. Permits shall not be issued for properties which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use(s) on the property.
4. The special event shall not endanger the public health, safety or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
5. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
6. Any structure used in conjunction with the special event shall meet all sight distance requirements in the Land Development Code, shall be the subject of a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the event.
7. Cars, trucks, vans, and trailers may not be used for the sale of merchandise, except for mobile food vendors licensed under Section 6-1701 et seq. of the Code of the City of Lawrence. Vehicles used for the storage of merchandise associated with an approved temporary use may only be located on site during the special event.

8. The special event shall be conducted on private property (on which the Planning Office has an approved site plan on file) in a commercial or industrial zoning district where the property owner has granted the appropriate written permission. Nonprofit organizations may conduct events on any site planned property (in any zoning district) where the property owner has granted the appropriate written permission.
9. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case, shall the duration exceed fourteen (14) consecutive days.
10. Signs displayed in conjunction with the use shall comply with City sign regulations and shall not be located on a public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.

(B) Special events meeting the Type 4 definition may be permitted administratively by the Planning Director, subject to prior review and approval by the Municipal Services and Operations Department, Code Enforcement Division, Police Department and Fire Department. No more than one (1) Type 4 permit per calendar year shall be issued administratively at any location. No administrative permit shall be issued unless all of the following standards are met: (Ord. 8089, Ord. 8665, Ord. 9487)

1. An application is submitted, and a fee is paid in accordance with Section 6-1506.
2. A site plan is submitted indicating the location of the trees, aisles, parking, and sales trailer or structure.
3. The location of the sales area shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself. Permits shall not be issued for properties which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use on the property.
4. Any structure used in conjunction with the Christmas tree sales shall meet all sight distance requirements of the Land Development Code, shall be the subject of a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the sale.
5. The sale shall be conducted on private property (on which the Planning Office has an approved site plan on file) in a commercial or industrial zoning district where the property owner has granted the appropriate written permission.
6. Christmas tree sales shall be permitted for no more than forty-five (45) consecutive days and the permit will expire on December 31 of each calendar year.

7. Signs displayed in conjunction with the use shall comply with City sign regulations and shall not be located on a public right-of-way.

6-1505

SPECIAL EVENTS SUBJECT TO CITY COMMISSION APPROVAL.

Type 5 special events and any special event not meeting the criteria of Sections 6-1503 or 6-1504 may be granted a Temporary Special Event Permit by the City Commission. Such permit may be subject to such conditions and safeguards as the City Commission may deem necessary to protect the public health, safety and welfare. These conditions may include but shall not be limited to: (Ord. 8089, Ord. 8665)

- (A) Restrictions on the hours of operation, duration of the event, size of the activity or other operational characteristic.
- (B) The posting of a performance bond to help ensure that the operation of the event and subsequent restoration of the site are conducted according to City Commission expectations.
- (C) The provision of traffic control or security personnel to increase the public safety and convenience.
- (D) Obtaining liability and personal injury insurance in such form and amount as the City Commission may find necessary to protect the safety and general welfare of the community.
- (E) Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on a public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.

6-1506

APPLICATION AND FEE.

- (A) No Temporary Special Event Permit shall be issued until an application has been submitted to the Planning Office and the appropriate fee paid. The application shall be made on the appropriate form provided by the Planning Office a *minimum* of five (5) working days prior to the proposed event or fourteen (14) days if reviewed by the City Commission. Incomplete applications shall not be processed or accepted for processing. An application shall be accompanied by the following items as applicable: (Ord. 8089, Ord. 8665)
 1. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures used in conjunction with the event.
 2. A sketch plan showing to scale the location of the proposed activities and structures in relation to existing buildings, parking areas, streets and property lines as shown on the approved site plan. In no event shall structures or display areas be located any closer than 25 feet to public rights-of-ways adjacent to the property.
 3. A letter from the property owner or manager, if different from the applicant, providing permission for the special event to occur on the property.
 4. A separate application will need to be made for any signs to be displayed in conjunction with the special event. In no event shall signs be displayed on the public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.
- (B) Each application for a Temporary Special Event Permit shall be accompanied by an application fee. The fee for all applications subject to administrative review and the review fee for Type 4 applications shall be \$50.00. The review fee for Type 5 applications and applications that do not

meet the standards outlined in Sections 6-1503 or 6-1504 shall be \$100.00 (Ord. 8089, Ord. 8665)

- (C) The approved Temporary Special Event Permit issued shall be available on site for inspection for the duration of the event. (Ord. 8089)

ARTICLE 16 PEDICABS

6-1601

DEFINITIONS.

Unless otherwise defined in this article, all words used in this ordinance shall have the meanings ascribed to them by the Standard Traffic Ordinance for Kansas Cities, incorporated by reference in Section 17-101 of this Code, and amendments thereto. For the purposes of this article, the following terms have the following definitions: (Ord. 8491)

- (A) "For hire" means to provide a service for any sort of payment or gratuity.
- (B) "Operator" means the individual who actually operates a pedicab whether as the owner, an employee of the owner, or as an independent contractor.
- (C) "Owner" means any person who owns, leases, or otherwise has a legal right to possession of a pedicab.
- (D) "Pedicab" means a vehicle upon which a person may ride, whether alone or with a trailer, that:
 - (1) has two or more wheels;
 - (2) is propelled exclusively by human power; and
 - (3) is utilized to carry passengers for hire.
- (E) "Slow-moving vehicle emblem" has the same meaning as contained in K.S.A. 8-1717 and amendments thereto.
- (F) "Oversized pedicab" means a pedicab larger than 55 inches in width or ten feet in length but which does not exceed nine feet in width or 18 feet in length. (Ord. 8519)

6-1602

OPERATION OF PEDICABS.

(Ord. 8491)

- (A) Licenses and permits required.
 - (1) It shall be unlawful for any operator of a pedicab to operate a pedicab without possessing a currently effective operator's permit issued pursuant to this article.
 - (2) It shall be unlawful for any owner of a pedicab to use or allow the pedicab to be used for the carrying of passengers for hire unless the owner possesses a currently effective owner's license issued pursuant to this article for that pedicab and that license is posted as required by this article.

- (3) No person shall operate a pedicab on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license issued by the authority of the State of Kansas or another of the United States.

(B) Operation.

- (1) All rules of operation set forth in this section shall be supplemental to all other laws or regulations that apply to the operation of the specific type of vehicle being operated, including but not limited to those set forth in the Standard Traffic Ordinance for Kansas Cities as incorporated by reference in Section 17-101 of this Code, and amendments thereto, and all other applicable provisions of this Code. In the case of conflict between this article and any other law or regulation, the more restrictive of the conflicting laws or regulations shall control.
- (2) No pedicab shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a pedicab from crossing a federal or state highway.
- (3) No pedicab shall be operated on any public highways, streets, roads or alleys within the corporate limits of the City of Lawrence with posted speed limits greater than 30 miles per hour; provided, however, that the provisions of this subsection shall not prohibit a pedicab from crossing any public highways, streets, roads and alleys within the corporate limits of the City of Lawrence with posted speed limits greater than 30 miles per hour.
- (4) No pedicab shall be stopped on any public highways, streets, roads or alleys within the corporate limits of the City of Lawrence with posted speed limits greater than 30 miles per hour to pick up passengers.
- (5) No pedicab shall be operated in a pedicab-restricted zone.
- (6) It is unlawful for any person propelling a pedicab to ride other than on a permanent and regular seat attached to the pedicab.
- (7) No pedicab that is being ridden by any person may be pushed or towed by a motor vehicle.
- (8) No pedicab may push or tow another vehicle or pedestrian who is not a current passenger of the pedicab.
- (9) It is unlawful for any operator of a pedicab to carry at any one time a number of persons in excess of the number of seats available.
- (10) It is unlawful for any person to operate a pedicab on a sidewalk unless the width of the sidewalk is no less than two times the width of the pedicab and it would otherwise be lawful to operate the pedicab on such sidewalk.

- (11) It is unlawful for any person to operate a pedicab and fail to exercise due care to avoid colliding with any public or private property, pedestrian or other vehicle.
- (12) It is unlawful for any person to operate a pedicab while under the influence of alcohol or drugs if it would be a violation of Kansas law for the person to operate a commercial motor vehicle while holding a commercial drivers license while under the influence of alcohol or drugs to an equivalent extent.
- (13) It is unlawful to operate, stop or park a pedicab in a manner that unreasonably obstructs pedestrian or vehicular traffic.
- (14) It is unlawful to operate a pedicab without all equipment required by this article.
- (15) It is unlawful to operate a pedicab with any equipment prohibited by this article.
- (16) No oversized pedicab shall be operated on any section of a street or highway that is not part of a route of operation that has been submitted to and approved by the City Clerk, or his or her designee pursuant to this article, (Ord. 8519)

(C) Insurance requirements

- (1) Every owner of a pedicab, other than an oversized pedicab, shall obtain commercial vehicle liability insurance coverage from an insurance company lawfully operating in the State of Kansas in the following amount:
 - (a) Primary bodily injury with limits of at least \$250,000 per person, \$500,000 per occurrence and primary property damage with limits of at least \$100,000 per occurrence; or
 - (b) Combined single limits of at least \$500,000 per occurrence.
- (2) Every owner of an oversized pedicab shall obtain commercial vehicle liability insurance coverage from an insurance company lawfully operating in the State of Kansas with combined single limits of at least \$1,000,000 per occurrence. (Ord. 8519)
- (3) It shall be unlawful for any person to operate a pedicab without the insurance coverage required by this section.

6-1603

PEDICAB EQUIPMENT, WIDTHS AND LENGTHS.

(Ord. 8491)

- (A) It shall be unlawful to operate a pedicab unless it is equipped with the following equipment.
 - (1) A slow moving vehicle emblem on the rear of the vehicle. The slow-moving vehicle emblem shall be mounted and displayed in compliance with K.S.A. 8-1717 and amendments thereto.

- (2) A functioning seatbelt for each passenger seat, except for oversized pedicabs. (Ord. 8519)
 - (3) A functioning lamp on the front which emits a white light visible from at least 500 feet of the front of the pedicab, mounted not less than 24 inches nor more than 54 inches from the ground.
 - (4) At least two functioning tail lights mounted to the rear of the pedicab. At least one light shall be mounted on each side of the rear of the pedicab's passenger compartment at a height of not less than 15 inches nor more than 54 inches. Each tail light shall emit a red light capable of being seen from a distance of not less than 500 feet.
 - (5) Functioning electric turn signal lamps that shall indicate an intention to turn by flashing lights showing to the front and rear of the vehicle. They shall be mounted at the same level, spaced as far apart laterally as possible, and when signaling shall emit an amber light. The lights must be capable of being seen at a distance of at least 500 feet in normal sunlight.
 - (6) Functioning hydraulic, mechanical disc or drum brakes.
 - (7) A clearly visible manufacturer's serial number or identification number that has not been altered or defaced.
 - (8) The trade name of the owner of the pedicab and the pedicab number assigned by the City in plain, legible letters visible to the public that are not less than two inches in height.
- (B) It shall be unlawful to operate the pedicab equipped with any of the following equipment.
- (1) More than one trailer.
 - (2) Any sound amplification device that is plainly audible from a distance of 50 feet or more.
 - (3) Any siren or whistle.
- (C) It is unlawful to operate a pedicab, except for an oversized pedicab, that exceeds the following dimensions.
- (1) 55 inches in width.
 - (2) 10 feet in length.

6-1604

PEDICAB FARES.

(Ord. 8491)

(A) Unlawful practices relating to fares.

- (1) It is unlawful for the operator of a pedicab to charge a passenger a fare that was not agreed upon with the passenger in advance of the service.
- (2) It is unlawful for the operator of a pedicab to demand a fare from a passenger after agreeing to provide the service for a gratuity only.

- (3) It is unlawful to fail to post a fare schedule as provided by this section.
- (4) It is unlawful to charge a fare in excess of the amount in the fare schedule posted pursuant to this section unless the pedicab operator has been hired to provide a guided tour or other additional services.

(B) Fare Schedule

Every pedicab shall have a fare schedule affixed to its outside. The fare schedule shall be printed in plain, legible letters and shall list the rates for carriage in such pedicab. The fare schedule must be printed in letters no less than two inches in height.

6-1605

PEDICAB-RESTRICTED ZONES.

(Ord. 8491)

In order to expedite traffic, for safety purposes, to cover emergencies and special conditions or events, or to determine the advisability of permanent regulations for recommendation to the governing body, the Police Chief shall have the authority to designate areas of the City of Lawrence in which the operation of pedicabs is restricted or prohibited. These pedicab-restricted zones shall not remain in force for more than 90 days at a time without approval by the governing body.

6-1606

OWNER'S LICENSE

(Ord. 8491)

(A) Any license issued pursuant to this section is issued to a single pedicab and is not transferable.

(B) Application for a pedicab owner's license shall be made to the City Clerk on a form provided by the City Clerk for that purpose. Only the owner or lessee of a pedicab may make application. The application shall include:

- (1) The full legal name, birth date and place of birth of the applicant.
- (2) The applicant's trade name.
- (3) The applicant's current address, business mailing address, and telephone number.
- (4) Whether the pedicab is owned or leased.
- (5) A description of the pedicab design, make, model and manufacturer's serial or identification number, and seating capacity.
- (6) Proof that the pedicab meets the insurance requirements of this article.
- (7) A digital photograph of the pedicab of a format and type and on media approved by the City Clerk.
- (8) Whether the applicant has previously been licensed under this article, and whether any previous licenses have been revoked.
- (9) A copy of applicant's government issued photo identification.
- (10) A copy of the applicant's fare schedule.

- (11) A description of the routes over which the owner intends to operate the pedicab.
- (12) Whether the applicant has ever been convicted of a felony or misdemeanor, and the details of any such conviction.
- (13) Any other information the City Clerk determines would be helpful to determine the applicant's eligibility, provided requesting such information is not unlawful and is consistent with the intent of this article.

(C) License standards

The City Clerk shall review the application, and shall issue a license for the pedicab within ten business days unless:

- (1) The applicant filed an incomplete application or materially misstated any fact during the application process.
- (2) The applicant has been convicted of any crime of dishonesty in the last three years.
- (3) The applicant has not met the insurance requirements of this article.
- (4) The pedicab that the permit is applied for does not meet the standards for lawful operation under this article.
- (5) The routes proposed for oversized pedicab operation listed in the application have not been approved by the City Clerk or his or her designee. (Ord. 8519)

(D) Oversized pedicab route approval. (Ord. 8519)

- (1) Proposed routes for oversized pedicabs may be submitted to the City Clerk or his or her designee for review or approval with an application for an owner's license under this section, or in writing at any other time.
- (2) Proposed routes for oversized pedicabs shall be reviewed within ten business days and approved unless the City Clerk or his or her designee determines that the operation of an oversized pedicab on all or part of the proposed route would be injurious to the public's health, safety, welfare, or interest in the free flow of traffic.
- (3) An applicant aggrieved by a decision denying approval of a proposed route for an oversized pedicab may appeal pursuant to Section 6-1606 of the City Code.

(E) Fees

The fee for a pedicab license, which must be paid before a license will issue, is \$75.00, except that the license fee for an oversized pedicab shall be \$150.00. (Ord. 8519)

(F) License issuance and display

The license issued pursuant to this section shall include an individual and unique license number, and shall be effective for one year unless revoked.

Such license shall be displayed on or in the pedicab in an area that is clearly visible to its passengers.

6-1607

PEDICAB OPERATOR'S PERMIT.

(Ord. 8491)

- (A) Any permit issued pursuant to this section shall be issued to a specific individual and is not transferable.
- (B) Application for a pedicab operator's permit shall be made to the City Clerk on a form provided by the City Clerk for that purpose. The application shall include:
 - (1) The full legal name, birth date and place of birth of the applicant.
 - (2) The applicant's current address, business mailing address, and telephone number.
 - (3) A written statement of intent to employ the applicant from the owner of a pedicab, if a pedicab is not owned by the applicant.
 - (4) Whether the applicant has previously held a permit under this article, and whether any previous licenses have been revoked.
 - (5) A copy of applicant's currently valid driver's license.
 - (6) Whether the applicant's driver's license has ever been suspended or revoked, and if so the reason for such suspension or revocation.
 - (7) Whether the applicant has ever been convicted of a felony or misdemeanor, and the details of any such conviction.
 - (8) Whether the applicant suffers from any condition that would impair his or her ability to safely operate a pedicab.
 - (9) Any other information the City Clerk determines would be helpful to determine the applicant's eligibility, provided requesting such information is not unlawful and is consistent with the intent of this article.
 - (10) Permission from the applicant to photograph the applicant.

(C) Permit Standards

The City Clerk shall review the application, and will issue a permit to the pedicab operator within ten business days unless:

- (1) The applicant filed an incomplete application or materially misstated any fact during the application process.
- (2) The applicant does not have a current driver's license.
- (3) The applicant has been convicted of a crime involving dishonesty in the previous three years.
- (4) The applicant has some condition that renders him or her incapable of safely operating a pedicab.

- (5) The applicant has had a previous permit issued pursuant to this section revoked within the past three years.
- (6) The applicant held a previous permit issued pursuant to this section that expired within the past three years and at the time of the expiration there existed a lawful basis to revoke the permit.
- (D) The cost of a pedicab operator's permit, which shall be paid before the permit will issue, is \$50.00.
- (E) Permit issuance and display
 - (1) The permit issued pursuant to this section shall be effective for one year unless revoked.
 - (2) The permit shall be carried by the pedicab operator at all times the operator is operating a pedicab. The permit shall be displayed to any law enforcement officer who requests to examine it.

6-1608

LICENSE AND PERMIT REVOCATION.

(Ord. 8491)

(A) Emergency Suspension

- (1) Any law enforcement officer with jurisdiction over the City of Lawrence, Kansas may suspend a pedicab operator's permit for any of the following reasons:
 - (a) If the officer has probable cause to believe that the pedicab operator is unlawfully driving under the influence of alcohol or drugs.
 - (b) If the officer has probable cause to believe that the operator has operated a pedicab in a way that constitutes an immediate threat to the public health, safety or welfare while operating the pedicab.
- (2) Any law enforcement officer with jurisdiction over the City of Lawrence, Kansas may suspend a pedicab license for any of the following reasons:
 - (a) The pedicab operator or owner is unable to produce proof of the insurance coverage required by this section.
 - (b) The officer has probable cause to believe that the pedicab is in a state of repair that constitutes an immediate threat to the public health, safety or welfare.
- (3) Upon emergency suspension of a permit or license by a law enforcement officer under this section, the officer shall forward the permit or license along with a written statement setting forth the basis for the action to the City Clerk. The City Clerk shall begin the license revocation proceedings set forth in this section within five business days or shall return the permit or license to the holder of the suspended permit or license. Return of the permit shall not prohibit a licensing action based upon the facts and

conditions that warranted the emergency suspension. If revocation proceedings are begun within five days of suspension, the license or permit shall remain suspended during the revocation and hearing process.

(B) Revocation

(1) The City Clerk may revoke a pedicab license for the following reasons:

- (a) The operator would no longer be qualified to obtain a pedicab license.
- (b) The pedicab does not have the equipment required by Section 6-1603, and amendments thereto.
- (c) The pedicab owner cannot produce proof of current insurance as required by this article.
- (d) The pedicab owner allowed an unlicensed operator to operate the pedicab.
- (e) The pedicab is in a state of repair that constitutes an immediate threat to the public health, safety or welfare, or is otherwise illegal to operate under this article, and amendments thereto, or any other law.
- (f) The licensee made any material misstatement in the application process.
- (g) The pedicab has been operated unlawfully in pedicab restricted zones on three or more occasions.
- (h) The licensee has had a license of another pedicab he or she owns revoked during the current licensing period.

(2) The City Clerk may revoke a pedicab operator's permit for any of the following reasons:

- (a) The pedicab operator unlawfully operated the pedicab under the influence of alcohol or drugs, or refused to submit to testing of the operator's breath, blood or urine when such testing is requested by a law enforcement officer who has probable cause to believe the operator is unlawfully operating a pedicab under the influence of alcohol or drugs.
- (b) The operator has operated a pedicab in a way that constitutes an immediate threat to the public health, safety or welfare.
- (c) The operator operates a pedicab without proof of the liability insurance required by this article.
- (d) The operator would no longer be eligible to obtain a pedicab license.

- (e) The operator has committed any of the unlawful acts set forth in this article on three or more occasions during any one year period of time.
- (f) The licensee made any material misstatement during the application process.

(3) Notice

Notice of the revocation shall be served by personal service or by sending a written notice of revocation to the applicant's address provided on the application by certified mail, postage prepaid. The notice shall set forth the basis for revocation and inform the licensee that unless he or she requests a hearing as provided by this article within 14 calendar days of the service of the revocation notice that the licensee's license or permit will be revoked and without further effect at the expiration of the 14 day period. Service by certified mail shall be deemed completed when mailed.

(4) Revocation

Unless a hearing is requested pursuant to this article, the license or permit shall be deemed to be revoked and without further effect 14 days after the service of the notice of revocation.

6-1609

APPEALS AND HEARING.

(Ord. 8491)

- (A) A hearing to contest a license or permit revocation or the denial of a license or permit application or the denial of approval of an oversized pedicab operating route, must be requested by the licensee in writing within 14 days of the service of the notice of revocation or denial. The request must be served upon the City Clerk for it to be effective. (Ord. 8519)
- (B) The hearing shall be held by the governing body as soon as is practicable, but if the licensee's license or permit is suspended at the time a hearing is requested, or if an application has been denied, the hearing shall be held no later than 14 days after the service of such request.
- (C) The hearing shall be held by the governing body in a manner that comports with procedural due process.
- (D) The City Clerk's decision to revoke the license or permit to deny the issuance of the same, or to deny the approval of an oversized pedicab operating route shall be upheld if the basis for the decision is established by a preponderance of the evidence. In lieu of revocation the governing body may establish reasonable conditions to allow the licensee or permittee to maintain the license or permit if such conditions adequately protect the public's health, safety and welfare. (Ord. 8519)
- (E) The decision of the governing body shall be final when rendered. If the decision is not rendered at the hearing, a written decision shall be served in the manner provided in this article for service of a notice of revocation, and shall be effective when served.

6-1610

SEVERABILITY.

If any section, clause, sentence, or phrase of this article is found to be

unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8491)

ARTICLE 17. MOBILE FOOD VENDORS

6-1701

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities, including those of Mobile Food Vendors. (Ord. 8571)

6-1702

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 8571)

- (a) **“City Clerk,”** for the purposes of this Article, shall mean the City Clerk, the interim City Clerk, anyone fulfilling the duties of the City Clerk on either a temporary or a permanent basis, or any designee of the City Clerk.
- (b) **“Mobile Food Vendor”** shall mean any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.
- (c) **“Mobile Food Unit”** shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale.
- (d) **“City Approved Event”** shall mean any event sanctioned by a Permit issued by the City, including but not limited to a Temporary Special Event Permit, a Temporary Use of Public Right of Way Permit, or a Parks and Recreation Department Special Use Permit.

6-1703

MOBILE FOOD VENDOR’S LICENSE REQUIRED.

No person, corporation, association, or other entity, however organized, shall operate within the corporate limits of the City as a Mobile Food Vendor without first obtaining a valid Mobile Food Vendor’s License. (Ord. 8571)

6-1704

MOBILE FOOD VENDOR’S LICENSE FEE.

The application fee for a Mobile Food Vendor’s License is \$300.00. The fee shall not be pro-rated or refunded for any reason, including denial of an application or revocation of a license. (Ord. 8571)

6-1705

MOBILE FOOD VENDOR’S LICENSE APPLICATION.

Application for a Mobile Food Vendor’s License shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the Mobile Food Vendor’s License Fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information: (Ord. 8571)

- (a) The applicant’s full legal name, date of birth, place of birth, and Social Security Number.
- (b) The applicant’s permanent address, business mailing address, and telephone number.

- (c) A copy of the applicant's government-issued photo identification.
- (d) The applicant's valid Kansas sales tax number.
- (e) A brief description of the nature of the business and the food and/or beverage to be offered for sale.
- (f) A photograph of each Mobile Food Unit and, if licensed, the license plate number of each Mobile Food Unit.
- (g) A copy of a valid State of Kansas license for food service establishments, if such is required.
- (h) Proof of general liability insurance in the amount of \$500,000.00 or more.
- (i) A statement indicating whether or not the applicant has had a Mobile Food Vendor's License, or any similar license, revoked in this jurisdiction within the preceding two (2) years.
- (j) The applicant's signature.

6-1706

MOBILE FOOD VENDOR'S LICENSE ISSUANCE; DENIAL.

- (A) The City Clerk shall review each application for a Mobile Food Vendor's License. Within five (5) business days of the application, the City Clerk shall approve the application and shall issue to the applicant a Mobile Food Vendor's License together with an official copy for each Mobile Food Unit identified in the application unless: (Ord. 8571)
 - (1) The application is incomplete.
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
 - (3) The applicant has had a Mobile Food Vendor's License revoked by the City for any reason within the preceding two (2) years.
- (B) If the application is deficient for any of the reasons set forth in Section 6-1706(a) of this Article, then the City Clerk shall deny the application by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the applicant of the reason for denial, and shall inform the applicant that he or she has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of the application to the Governing Body. The City Clerk shall maintain a copy of the Notice of Denial in his or her files. (Ord. 8571)

6-1707

MOBILE FOOD VENDOR'S LICENSE APPEARANCE; DURATION.
(Ord. 8571)

- (a) The Mobile Food Vendor's License shall contain the seal of the City, the name of the licensee, and the expiration date of the license.
- (b) The Mobile Food Vendor's License shall be valid for a period not to exceed one year and shall expire on December 31 of the year in which it is issued.

6-1708

MOBILE FOOD VENDOR'S LICENSE SUBSEQUENT MOBILE FOOD UNIT.

In the event that a licensed Mobile Food Vendor begins using a Mobile Food Unit that was not identified in an application for the Mobile Food Vendor's License, the Mobile Food Vendor shall, before using said Mobile Food Unit, present to the City Clerk a photograph of the Mobile Food Unit, the license plate number, if licensed, and a copy of the original Mobile Food License. Upon receipt of that information, the City Clerk shall issue to the licensee an official copy of the Mobile Food License for the new Mobile Food Unit. (Ord. 8571)

6-1709

MOBILE FOOD VENDOR'S LICENSE DISPLAYED.

Mobile Food Vendors shall display the Mobile Food Vendor's License in a prominent place on a Mobile Food Unit at all times that that Mobile Food Unit is engaged in any of the activities licensed by this Article. (Ord. 8571)

6-1710

MOBILE FOOD VENDOR'S LICENSE NON-TRANSFERABLE.

No Mobile Food Vendor's License issued in accordance with the provisions of this Article shall be used by any person other than the person, corporation, association, or other entity, however organized, to whom it was issued. (Ord. 8571)

6-1711

MOBILE FOOD VENDOR'S LICENSE RESTRICTIONS.

(Ord. 8571, Ord. 9026)

- (A) Mobile Food Vendors shall obtain the permission of the property owner before engaging in any activities licensed by this Article.
- (B) Mobile Food Vendors may only engage in activities licensed by this Article on improved surfaces in commercial, industrial, and nonresidential special purpose zoning districts as defined in Chapter 20, Article 2 of the Code of the City of Lawrence.
- (C) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a public right of way, except as part of a City Approved Event.
- (D) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from any unoccupied or vacant lot, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (g) of this Section.
- (E) No more than two (2) Mobile Food Units may be operated at the same time on any single property, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (g) of this Section.
- (F) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a single property for more than three (3) hours out of every day, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (g) of this Section.
- (G) The City may approve a Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of a site only when the following conditions are met:

- (1) The owner must submit to the City, for its approval, a standard Site Plan showing, among other things, the location on the site of Mobile Food Vendors as either a permanent or seasonal element of the site;
- (2) The proposed Site Plan must meet all requirements of Chapter 20 of the Code of the City of Lawrence, as amended, and the provisions of this Article; and
- (3) The real property that is the subject of the Site Plan must be located in a zoning district where *Fast Order Food*, as that term is defined at Section 20-1724(6) of the Code of the City of Lawrence, as amended, is a permitted use.

6-1712

MOBILE FOOD UNIT STANDARDS.

All Mobile Food Units shall comply with the following standards: (Ord. 9026)

- (A) All Mobile Food Units shall be maintained in good, operable condition and shall, at all times, be capable of being moved.
- (B) The exterior of all Mobile Food Units shall be maintained in good repair, shall be sound, shall be free from peeling or flaking paint, and shall be clean and sanitary so as not to pose a threat to the public health, safety, and welfare.
- (C) All Mobile Food Units, unless completely self-contained, shall be located in close proximity to and shall be connected safely to electricity and other necessary utilities, such that they do not pose a threat to the public health, safety, and welfare.
- (D) Signs shall be limited to those that may be mounted or incorporated on the Mobile Food Unit. Signs shall not exceed the dimensions of the Mobile Food Unit by more than one (1) foot in any direction. No flashing signs shall be permitted. Illuminated signs are permitted, provided that the signs are only illuminated when the Mobile Food Unit is stationary, that such signs are only illuminated during hours that the Mobile Food Unit is being operated, and that any such signs, within five hundred (500) feet of any traffic signal, are not green, amber, or red in color. When the sign is illuminated by a light or lights reflected upon it, direct rays of light shall not beam upon any residential building or into any residential neighborhood or street.

6-1713

MOBILE FOOD VENDOR'S LICENSE REVOCATION.

(Ord. 8571, Ord. 9026)

- (A) The City Clerk may revoke any Mobile Food Vendor's License issued under this Article for one or more of the following reasons:
 - (1) Fraud, misrepresentation, or false statement contained in the application for the Mobile Food Vendor's License;
 - (2) Any violation of the provisions of this Article;
 - (3) Conducting a licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety, or welfare of the residents of the City;

- (4) Unauthorized use of a public right of way;
 - (5) Violation of a site plan requirement for an existing land use or for any other violation of Chapter 20 of the City Code; or
 - (6) Revocation or denial of any license issued by the State of Kansas for food service establishments.
- (B) Notice of Revocation shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the licensee of the reason for revocation, and shall inform the licensee that he or she has fourteen (14) days from the date of the Notice of Revocation to appeal the revocation to the Governing Body. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files.

6-1714

MOBILE FOOD VENDOR’S LICENSE APPEAL.

Any person aggrieved by the action of the City Clerk in denying an application for a Mobile Food Vendor’s License or in revoking a Mobile Food Vendor’s License shall have the right to appeal that action to the Governing Body. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal must be in writing and must set forth why the applicant or the licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the Governing Body shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant or licensee in the same manner as the Notice of Denial or the Notice of Revocation. The Governing Body’s decision and order on such appeal shall be the final order of the City. (Ord. 8571, Ord. 9026)

6-1715

MOBILE FOOD VENDOR’S LICENSE MUNICIPAL OFFENSE.

Operating as a Mobile Food Vendor without a Mobile Food Vendor’s License shall be a municipal offense. Any person, upon an adjudication of guilt or the entry of a plea of no contest, shall be subject to a fine of a minimum of \$500.00 and a maximum of \$1,000.00. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine. (Ord. 8571, Ord. 9026)

6-1716

MOBILE FOOD VENDOR’S LICENSE EXEMPTIONS.

The provisions of this Article shall not apply to the following activities: (Ord. 8571, Ord. 9026)

- (a) Ice cream vendors licensed under Article 9, Chapter 3 of the Code of the City of Lawrence.
- (b) Street vendors licensed under Article 6, Chapter 14 of the Code of the City of Lawrence.
- (c) Vendors selling at the Douglas County Fairgrounds.
- (d) Vendors selling at the Farmers’ Market.
- (e) Vendors selling on school or university campuses.
- (f) Vendors selling as part of a City Approved Event.

ARTICLE 18 - Reserved

ARTICLE 19. SIDEWALK SALES

- 6-1901 **PURPOSE.**
The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities within the City, including Sidewalk Sales. (Ord. 8754)
- 6-1902 **DEFINITIONS.**
The term "Sidewalk Sale" as used in this article shall mean any activity wherein tables, chairs, racks, displays, shelves, or other devices are placed on a sidewalk in the public right of way for the purposes of selling, distributing, or conveying to the general public goods, wares, merchandise, foods, services, or other items. (Ord. 8754)
- 6-1903 **SIDEWALK SALES PERMIT REQUIRED.**
No person, retail business, non-profit organization, or other entity shall conduct a "Sidewalk Sale" in any non-residential zoning district without first obtaining from the City Clerk, or the City Clerk's designee, a valid Sidewalk Sales Permit. (Ord. 8754)
- 6-1904 **SIDEWALK SALES PERMIT FEE.**
The fee for a Sidewalk Sales Permit shall be \$10.00 per day. (Ord. 8754)
- 6-1905 **SIDEWALK SALES PERMIT APPLICATION.**
Application for a Sidewalk Sales Permit shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the Sidewalk Sales Permit Fee, the applicant shall complete the application in full, providing the following information: (Ord. 8754)
- (a) The applicant's full legal name, permanent address, and telephone number.
 - (b) The location(s), date(s) and time(s) of the proposed Sidewalk Sale(s).
 - (c) Written permission of the adjoining property owner, if the applicant is not the owner of that property.
 - (d) A certificate of insurance from the applicant, the adjoining business, or the property owner demonstrating general liability coverage of the Sidewalk Sale(s), the applicant, or the adjoining business or property in an amount not less than \$500,000.00 per single incident.
 - (e) A statement acknowledging that the applicant agrees, at all times, to save and to hold harmless the City of Lawrence, Kansas, its officers, agents, and employees, from all liability, costs, damages, and expenses of any kind, the payment of which the City may become liable to any person, firm, or corporation by reason of any claim for damages arising from the failure of the applicant, its employees, agents, servants, invitees, and/or patrons to exercise reasonable care in the use of the sidewalk and the public right of way.
 - (f) Any additional information reasonably necessary and relevant to the issuance of a Sidewalk Sales Permit.

- 6-1906 **SIDEWALK SALES PERMIT ISSUANCE.**
 Upon application by a person, retail business, non-profit organization, or any other entity, assuming all conditions established by Section 6-1907 are met, the City Clerk, or the City Clerk's designee, shall issue to the applicant a Sidewalk Sales Permit, which Sidewalk Sales Permit shall be deemed a conditional waiver from the prohibition of the use of the sidewalk and the public right of way for private purposes (See Chapter 16, Article 8). (Ord. 8754)
- 6-1907 **SIDEWALK SALES PERMIT CONDITIONS.**
 (Ord. 8754)
 (a) Sidewalk sales may not be conducted adjacent to any single address for more than three consecutive days, or for more than twelve days during any one calendar year.
 (b) Merchandise, displays, or other items placed on the sidewalk during a Sidewalk Sale must be placed in such a manner that there exists a continuous, uninterrupted path, not less than six feet in width, for pedestrians to travel unimpeded through the Sidewalk Sale area.
- 6-1908 **SIDEWALK SALES UNLAWFUL CONDUCT; PENALTIES.**
 Operating a Sidewalk Sale in a non-residential district without first obtaining a Sidewalk Sale Permit, or in violation of any of the conditions of Section 6-1807, shall be unlawful and shall be a municipal offense. Any person or other entity, upon an adjudication of guilt or the entry of a plea of no contest for a violation of any provision under this Article, shall be subject to a fine of a minimum of \$100.00 and a maximum of \$250.00. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine. (Ord. 8754)
- 6-1909 **SEVERABILITY.**
 If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8754)

ARTICLE 20. BODYWORK PRACTITIONERS

- 6-2001 **PURPOSE.**
 The purpose of this Article is to protect the health, safety, and welfare of the residents of the City of Lawrence, Kansas. The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities, including those related to the practice of Bodywork. (Ord. 9305)
- 6-2002 **DEFINITIONS.**
 (Ord. 9305)
 The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:
- (A) **Approved Bodywork Education Program** shall, for the purposes of this Article, mean a school or educational program that, at a minimum, includes 500 clock hours, is authorized in the jurisdiction in which it is located, and reflects a curriculum acceptable to an accrediting body recognized by the U.S. Department of Education. Education received outside of the United States must be substantially equivalent to the criteria of this Article and must be recognized by the jurisdiction in which it is located.

- (B) **Bodywork** shall, for purposes of this Article, mean any therapeutic or personal development technique that involves working with the human body in a form involving manipulative therapy, breath work, or energy. Bodywork includes Massage Therapy, Structural Integration, and other Manual Therapies, as herein defined.
- (C) **Bodywork Business** shall, for the purposes of this Article, mean any in-office establishment where any person engages in or carries on or permits to be engaged in or carried on any Bodywork, as herein defined, or represents to others as providing such.
- (D) **Bodywork Practitioner** shall, for purposes of this Article, mean any person who, for any consideration whatsoever, engages in the practice of Bodywork as herein defined.
- (E) **Bodywork Practitioner License (License)** shall, for purposes of this Article, mean a certificate granting permission for an individual to work as a Bodywork Practitioner within the City of Lawrence.
- (F) **City Clerk** shall, for purposes of this Article, mean the City Clerk, the interim City Clerk, anyone fulfilling the duties of the City Clerk on either a temporary or permanent basis, or any designee of the City Clerk.
- (G) **Client** shall, for the purposes of this Article, mean any person who utilizes or receives the services of any establishment or person 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 or gratuity.
- (H) **Family or Household Member** shall, for purposes of this Article, mean persons related by blood, marriage, or adoption, or who currently reside together.
- (I) **Manual Therapist** shall, for purposes of this Article, mean a person who, for any consideration whatsoever, engages in the practice of Manual Therapy, as herein defined.
- (J) **Manual Therapy** shall, for purposes of this Article, mean the practice of a manipulative therapy or energy work therapy that is neither Massage Therapy nor Structural Integration, and is not regulated by a Kansas or federal regulation, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity.
- (K) **Massage or Massage Therapy** shall, for the purposes of this Article, mean the mobilization of the soft tissue which may include skin, fascia, tendons, ligaments, and muscles, for the purpose of establishing or restoring the general health or well-being of the client, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity. The term shall include, but is not limited to, effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold application, topical applications, or other therapy which involves movement by either hand, forearm, elbow, or foot, for the purpose of therapeutic massage. Massage Therapy as defined

herein does not include use of procedures for which a license is required to practice medicine, physical therapy, podiatry, or chiropractic medicine.

- (L) **Massage Therapist** shall, for the purposes of this Article, mean any person who, for any consideration whatsoever, engages in the practice of Massage Therapy as herein defined.
- (M) **Minor Traffic Violation** shall, for the purposes of this Article, mean any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.
- (N) **Parking Violation** shall, for the purposes of this Article, mean any violation classified as an ordinance parking violation pursuant to Article 17 of the Code of the City of Lawrence, Kansas, or any other similar violation under the laws of another municipality.
- (O) **Planned Community Event** shall, for purposes of this Article, mean a gathering planned in advance in which a group of people block or reserve or otherwise occupy public property, a right-of-way, or private property for the purpose of participating in a sporting or musical event or a continuing education program.
- (P) **Reiki and Other Forms of Energy Work** shall, for purposes of this Article, mean the application of the practitioner's hands to manipulate the energy of the human body without manipulating the soft tissues of the human body, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity.
- (Q) **Reflexology** shall, for purposes of this Article, mean the application of specific pressure by the use of the practitioner's hands to reflex points in the client's hands, feet, or ears using alternating pressure, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity.
- (R) **Reflexologist** shall, for the purposes of this Article, mean any person who, for any consideration whatsoever, engages in the practice of Reflexology as herein defined.
- (S) **Structural Integration** shall, for the purposes of this Article, mean a system of Manual Therapy and postural and movement education that aims to improve postural balance, ease of movement, and biomechanical functioning, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity.
- (T) **Structural Integrator** shall, for the purposes of this Article, mean any person who, for any consideration whatsoever, engages in the practice of Structural Integration as herein defined.

6-2003

BODYWORK PRACTITIONER LICENSE REQUIRED.

(Ord. 9305)

- (A) Unless otherwise stated in Section 6-2004 of this Article, no person shall work as a Bodywork Practitioner, as herein defined, within the City without first obtaining from the City Clerk a Bodywork Practitioner License. Any

person issued a Bodywork Practitioner License must work within the scope of his or her education and training.

- (B) No person, corporation, association, or other entity, however organized, shall employ a Bodywork Practitioner, as herein defined, within the City if such applicant for employment has not first obtained from the City Clerk a Bodywork Practitioner License.
- (C) It is unlawful to work as a Bodywork Practitioner in the City after such person's License has expired or been revoked by the City.
- (D) Only one Bodywork Practitioner License shall be required for a Bodywork Practitioner for activities such person engages in that are permitted by this Article.

6-2004

EXCEPTIONS TO LICENSURE REQUIREMENT.

(Ord. 9305)

(A) This Article shall not be construed to apply to or restrict the practice of Bodywork, as defined by this Article, in the following circumstances:

- (1) A currently enrolled student in an Approved Bodywork Education Program may practice Bodywork, provided the practice, conduct, activities, or services constitute a part of a required course of study in the program and that such persons are identified as students. Such currently enrolled student shall be prohibited from receiving payment or consideration of any type, except that they may receive tips in accordance with his or her school policy.
- (2) An individual currently licensed and in good standing to practice Bodywork in another jurisdiction may practice Bodywork in this jurisdiction on a temporary basis for a Planned Community Event for a period not to exceed seven (7) days or until the closing of the event, whichever period is shorter. Such temporary practice privileges shall apply for no more than thirty (30) days per year and are limited to acts related to the practice of Bodywork at planned event(s) and on identified persons of an identified team or participants at planned event(s) including visiting sports teams, planned athletic events, and education seminars. Practitioners under this subsection are not authorized to practice Bodywork on the general public.
- (3) An individual currently licensed and in good standing to practice Bodywork in another jurisdiction may practice Bodywork on a temporary basis and in response to a disaster or emergency declared by the appropriate authority or Governor of this state. The privileges provided for under this subsection apply only during the length of time indicated in the formal emergency declaration.
- (4) An individual may provide Bodywork services to any Family or Household Member, so long as such person does not offer, hold out, or claim to be a Bodywork Practitioner and does not receive payment or other compensation for such services.

(B) A person may practice Bodywork during the pendency of their submission of documentation for licensure to the City Clerk, provided that such applicant first register with the City Clerk within three (3) months of the effective date of this Article. A person must register with the City Clerk if he or she requires additional time to submit an application for licensure to the City Clerk. To properly register, an applicant must provide the City Clerk with the following:

- (1) The applicant's full legal name, along with any nicknames;
- (2) The applicant's home address, telephone number, and email address(es);
- (3) A copy of the applicant's government-issued identification, showing that the applicant is at least 18 years of age, such as a state-issued driver's license;
- (4) The applicant's fingerprints, for the purpose of a criminal records check, which will be considered for purposes of qualifications for licensure to the extent permitted by law, in order to verify that the applicant has not been convicted, under the laws of the State of Kansas or any other jurisdiction, of a felony, sexually-related offense, or any violation of this Article. The applicant shall be responsible for the cost of fingerprinting;
- (5) Information pertaining to the employment of the applicant, including the location of work, type of work, and name(s) of employer(s), business owner(s), and/or landlord(s), if applicable.

6-2005

BODYWORK PRACTITIONER'S REGISTER

Every Bodywork Business shall keep at its place of business a current, clean and legible register showing all Bodywork Practitioners practicing at that location, and the practitioners' name, home address, and license number. (Ord. 9305)

6-2006

BODYWORK PRACTITIONER LICENSE FEE.

The fee for a Bodywork Practitioner License shall be \$75.00 per person, and shall be valid for two years from the date of issue. The fee shall not be pro-rated or refunded for any reason, including denial of an application, revocation of a License, or loss or destruction of the License. The renewal fee for such License shall be \$50.00. (Ord. 9305)

6-2007

APPLICATION FOR BODYWORK PRACTITIONER LICENSE.

Every applicant for a Bodywork Practitioner License shall file an application with the City Clerk on an application form made for that purpose. In addition to paying the Bodywork Practitioner License fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information: (Ord. 9305)

- (1) The applicant's full legal name, along with any nicknames;

- (2) The applicant's home address, telephone number, and email address(es);
- (3) A copy of the applicant's government-issued identification, showing that the applicant is at least 18 years of age, such as a state-issued driver's license;
- (4) If applicable, a list of all jurisdictions in which he or she currently holds a license for Bodywork, and all jurisdictions in which he or she has held a license for Bodywork within the previous three (3) years;
- (5) A copy of the applicant's current professional Bodywork and Massage Therapy liability insurance policy;
- (6) Information pertaining to the expected employment of the applicant upon licensure, including the location of work, type of work, and name(s) of employer(s), business owner(s), and/or landlord(s), if applicable.
- (7) A statement indicating whether or not the applicant has had a Bodywork Practitioner License or similar license denied, revoked, or suspended by the City or another jurisdiction within the preceding two (2) years and the reason for the denial, suspension, or revocation;
- (8) A statement indicating whether or not the applicant has ever been convicted, under the laws of the State of Kansas or any other jurisdiction, of a crime, except that Minor Traffic Infractions and Parking Violations shall not be required to be disclosed;
- (9) Fingerprints, for the purpose of a criminal records check, which will be considered for purposes of qualifications for licensure to the extent permitted by law, in order to verify that the applicant has not been convicted, under the laws of the State of Kansas or any other jurisdiction, of a felony, sexually-related offense, or any violation of this Article. The applicant shall be responsible for the cost of fingerprinting. This requirement shall not apply to an applicant who has previously submitted fingerprints pursuant to registration under Section 6-2004(B);
- (10) 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, including authorization for the City to conduct a background check;
- (11) The applicant's signature and the date of the application;
- (12) Written proof of the education and examination requirements set forth at Section 6-2008 herein.

6-2008

BODYWORK PRACTITIONER LICENSE EDUCATION AND EXAMINATION REQUIREMENTS.

In addition to the requirements set out in Section 6-2007, applicants for a Bodywork Practitioner License must provide acceptable proof of the following requirements based upon the Bodywork Practitioner's training and certification: (Ord. 9305)

- (A) Massage Therapists.
 - (1) Successful completion of a course of instruction, consisting of not less than 500 hours, in the theory, method or practice of Massage. The required curriculum must include the subjects of anatomy, physiology, kinesiology, pathology, first aid and hygiene and

practical instruction in Massage technique. Proof of completion of educational and training requirements must be by certified transcripts, from one or more accredited or state-approved schools, signed by the school registrar, either presented with a raised seal or faxed or emailed directly to the City Clerk by the school. The passage of such course may have occurred prior to the effective date of this Article; and

- (2) Successful passage of the Massage and Bodywork Licensing Exam (MBLex) developed and administered by the Federation of State Massage Therapy Boards (FSMTB) or the National Certification Examination (NCE) produced by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) and/or evidence that the applicant has maintained "Board Certification" by NCBTMB. The passage of such exam(s) may have occurred prior to the effective date of this Article

(B) Structural Integrators.

- (1) Successful completion of a course of instruction from a Structural Integration school that is recognized by the International Association of Structural Integrators (IASI) and compliant with IASI's current educational standards, such as The Rolf Institute, The Guild of Structural Integration, SOMA, or Hellerwork International. Proof of completion of education and training requirements must be by certified transcripts, signed by the school registrar, either presented with a raised seal or faxed or emailed directly to the City Clerk by the school. The passage of such course may have occurred prior to the effective date of this Article.

(C) Other Bodyworker Practitioners.

- (1) For Manual Therapy, including but not limited to the practice of Trager, Feldenkrais, Mind-Body Centering, Polarity Therapy, and Ortho Bionomy, successful completion of a minimum 500-hour nationally-recognized Manual Therapy training program.
- (2) For a practitioner holding a health care license, including but not limited to the practice of CranioSacral Therapy, Lymph Drainage Therapy, and Visceral Manipulation, successful completion of a minimum of 96 hours of continuing education in a specific Manual Therapy modality.
- (3) For a practitioner practicing Reflexology, successful completion of 30 hours of Anatomy and Physiology, 5 hours of Business Ethics, 56 hours of in-person training, and successful passage of a National Board Certification examination.
- (4) Any person who practices Manual Therapy or any other non-massage Bodywork modality that is not listed herein, including but not limited to the practice of Reiki and other forms of energy work, may obtain a Bodywork Practitioner License upon acceptable proof that he or she has been trained and/or certified to perform the specific modality alleged. Minimum training requirements include

successful completion of 30 hours of Anatomy and Physiology, 5 hours of Business Ethics, and 56 hours of in-person training.

- (D) In determining whether an applicant has provided satisfactory proof of the education and examination requirements listed herein, the City Clerk may consult with the Bodywork Advisory Board.

6-2009

LICENSURE FOR EXISTING BODYWORK PRACTITIONERS.

Notwithstanding the qualifications under Sections 6-2007 and 6-2008 of this Article and for a period not to exceed 18-months from the effective date of this Article, persons who have engaged in the practice of Bodywork within the City or who have taught core clinical courses at an Approved Bodywork Education Program within the City may be eligible for expedited licensure. Applicants for licensure under this Section must provide the following information to the City Clerk: (Ord. 9305)

- (1) A completed Bodywork Practitioner License application;
- (2) License fee;
- (3) Documentation evidencing that the applicant meets the following requirements:
 - a. Has regularly practiced Bodywork in Lawrence, Kansas, for at least two (2) of the last three (3) years; or
 - b. Has regularly taught core clinical courses at an Approved Bodywork Education Program in Lawrence, Kansas, for two (2) of the last three (3) years;

Such documentation may include, but is not limited to, tax returns, tax forms, or a notarized affidavit under penalty of perjury from three (3) clients or two (2) Bodywork Practitioners licensed under this Article stating that such applicant has been practicing Bodywork in Lawrence for the requisite time period.

- (4) Documentation evidencing that the applicant has completed training and/or a course of study related to his or her Bodywork practice. Such documentation may include, but is not limited to, an official school transcript signed by the school registrar, either presented with a raised seal or faxed or emailed directly to the City Clerk by the school. If such a transcript is unavailable, the applicant may provide the name, city, and state of the institution in which the applicant trained or studied, or the applicant's mentor and dates of training, if applicable, along with the dates of attendance.

6-2010

LICENSURE BY RECIPROCITY.

A person who is licensed to practice Bodywork, as herein defined, in another

jurisdiction within the United States may seek licensure by providing evidence satisfactory to the City Clerk that the applicant is currently licensed and in good standing in another state, territory, or jurisdiction and has actively practiced for at least two (2) of the previous three (3) years in such other state, territory, or jurisdiction. The City Clerk may assess a reasonable fee for costs incurred to the City Clerk in verifying such information. In addition, such applicant must provide to the City Clerk the information listed in Section 6-2007 (1) - (12) of this Article. (Ord. 9305)

6-2011

BODYWORK PRACTITIONER LICENSE ISSUANCE; DENIAL.

(Ord. 9305)

(A) The City Clerk shall review each application for a Bodywork Practitioner License. For applications for licensure by reciprocity, the City Clerk shall have a reasonable amount of time to review and process each application and to issue a License, when appropriate. Otherwise, the Clerk Clerk shall approve all other applications within twenty one (21) days of the receipt of the application unless any of the following apply:

- (1) The application is incomplete;
- (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement;
- (3) The applicant has had a Bodywork Practitioner License, or similar license or permit, revoked by the City or any other jurisdiction for any reason within the preceding two (2) years;
- (4) The applicant has ever been convicted, under the laws of the State of Kansas, or any other jurisdiction, of a sexually-related felony or misdemeanor. Additionally, the applicant cannot have any of the following violations within the preceding three (3) years:
 - a. A person felony;
 - b. A person misdemeanor; or
 - c. Any violation of this Article;
- (5) The applicant has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or any other jurisdiction;
- (6) The applicant does not meet the requirements of Section 6-2008 or such education and examination requirements could not be verified; or

- (7) The applicant has not paid all applicable fees.

For purposes of this section, a conviction shall include, in addition to a guilty plea or conviction after trial, being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest.

- (B) If review of the application discloses that any of the criteria of Section 6-2011 (A)(1)-(7), inclusive, are met, then the City Clerk shall deny the application, by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant by certified mail at the given address, shall inform the applicant of the reason for denial, and shall state that the applicant has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of the application to the Bodywork Advisory Board. The City Clerk shall maintain a copy of the Notice of Denial in his or her files and shall transmit a copy of the Notice of Denial to the Chief of Police.
- (C) Any applicant, whose application is denied for any reason, except for the failure to fulfill the requirements of the application under Sections 6-2011 (A)(1), (6) & (7), is hereby prohibited from filing with the City Clerk an application for a Bodywork Practitioner License for a period of one (1) year, commencing the date after the Notice of Denial. An applicant, whose application is denied for any other reason, may file a subsequent application at any time during normal business hours.
- (D) Any person issued a License under this Article shall notify the City Clerk, in writing, of any change in the information such applicant provided on his or her initial application for licensure, including but not limited to any change in the location of work. Such notification shall be made within 14 days from the date of change.

6-2012

BODYWORK PRACTITIONER IDENTIFICATION CARD; DISPLAY.

All Bodywork Practitioners issued a Bodywork Practitioner License by the City Clerk pursuant to this Article, shall, at all times when working in the City, have in their possession a valid identification card issued by the City Clerk. The cost of such identification cards shall be incorporated as part of the licensure fee, provided however, that if a licensee requires replacement of such card the cost shall be \$15. The identification card shall include information the City Clerk deems appropriate, including but not limited to the name of the licensee and the type of Bodywork for which the licensee has provided the requisite education and examination documentation. The identification card shall be laminated to prevent alteration. Bodywork Practitioners shall produce their identification cards for inspection upon request of any person who by law may inspect the same. (Ord. 9305)

6-2013

BODYWORK PRACTITIONER LICENSE, REGISTRATION NON-TRANSFERABLE.

No Bodywork Practitioner License or proof of registration issued in accordance with the provisions of this Article shall be used by any person other than the person in whose name it was issued. (Ord. 9305)

6-2014

BODYWORK PRACTITIONER LICENSE RENEWAL.

(Ord. 9305)

- (A) In order to retain a Bodywork Practitioner License, the person holding such License must renew said License on a biennial basis from the date the License was originally effective. To renew a Bodywork Practitioner License, the licensee must, BEFORE the expiration date of that License, remit to the City Clerk the appropriate Bodywork Practitioner License fee, and any information necessary to insure up-to-date renewal application processing as determined by the City Clerk, including but not limited to, proof of a current liability insurance policy, the applicant's current work location, type of work, and employer(s), business owner(s), and/or landlord(s), if applicable.
- (B) There shall be assessed a \$25.00 late fee for any Bodywork Practitioner License that is not renewed BEFORE the expiration date of said License and the holder of said License seeks to renew after the License expiration date.

6-2015

APPEAL.

(Ord. 9305)

- (A) Any person aggrieved by the action of the City Clerk in denying an application for a Bodywork Practitioner License or in revoking the same shall have the right to appeal that action to the Bodywork Advisory Board. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal must be in writing and must set forth why the applicant or licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the Bodywork Advisory Board shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant or licensee in the same manner as the Notice of Denial or the Notice of Revocation.
- (B) When a Notice of Appeal is filed, the burden of proof shall be on the applicant or licensee to show, by a preponderance of the evidence presented, that the allegations set forth in the Notice of Appeal are true. If the applicant or licensee, or his or her representative, fails to appear at the scheduled hearing date, the Bodywork Advisory Board may nonetheless proceed with the hearing. For good cause shown, the Bodywork Advisory Board may grant a continuance, hold a hearing open, allow additions to the record after the hearing has concluded, or take other action in the interest of justice.
- (C) An applicant or licensee who is the subject of a Bodywork Advisory Board action may appeal any decision of the Bodywork Advisory Board to the City Commission by filing a notice of appeal with the Bodywork Advisory Board within thirty (30) days of the decision. The thirty (30) day appeal period shall commence three (3) days after the date the decision is received by mail at the applicant or licensee's address, as evidenced by a certificate of mailing, which shall be included with the Bodywork Advisory Board decision. The Bodywork Advisory Board shall forward the Bodywork Advisory Board decision and appeal to the City Commission together with the Bodywork Advisory Board record. Appeals to the City Commission shall be de novo and no action shall be taken by the Bodywork Advisory Board during a

pending appeal. Any decision by the City Commission shall be the City's final determination on such matter.

6-2016

BODYWORK ADVISORY BOARD

(Ord. 9305)

(A) There is hereby established a Bodywork Advisory Board for the purpose of providing technical expertise and guidance to the City Clerk and City Commission regarding the enforcement of this Article as well as providing recommendations on amendments to this Article. The Bodywork Advisory Board shall also hear appeals filed by an aggrieved person regarding the denial or revocation of a License or any disciplinary action taken against him or her pursuant to Section 6-2017. The Board shall consist of five members, and effort should be made to include a diversity of practitioners, including four (4) Bodywork Practitioners and one (1) member from the public at large who works or resides within the City of Lawrence. Board members shall be either a City of Lawrence, Kansas resident or work within the City of Lawrence, Kansas. Three (3) members of the Board shall constitute a quorum for the transaction of business. The City Manager, or his or her designee, shall appoint a staff liaison.

(B) Membership is voluntary and no voting member shall receive payment for service on the Board. Members will be appointed by the City Commission upon the recommendation of the Mayor.

(C) Voting members of the Board shall serve no more than two consecutive three (3) year terms, except that a member appointed to fill an unexpired term shall be entitled to serve two three (3) year terms in addition to the partial term. Upon the resignation of any such member, the City Commission shall, upon recommendation of the Mayor, appoint a new member to serve the unexpired portion of the resigning member's term. The Mayor, with majority consent of the City Commission, shall have the ability to remove a Board member for reasons of just cause, including but not limited to, poor attendance or personal conduct inconsistent with the expectations of the City of Lawrence.

6-2017

LICENSEE DISCIPLINARY ACTION.

(Ord. 9305)

(A) The following shall be grounds for the City to impose one or more disciplinary actions:

1. Conduct that violates any provision of this Article;
2. Aiding or abetting another person in the violation of this Article;
3. Practicing outside the scope of authority, training and education;
4. Delegation of professional responsibilities to a person who is not educated or trained to undertake such responsibilities;
5. Conviction of:
 - a. a felony;

- b. a sexually-related misdemeanor; or
 - c. any crime related to the practice of Bodywork;
6. Failure to pay the costs or fines assessed by the City;
 7. Being subject to any disciplinary sanction from this or any other jurisdiction against any professional license, including any license related to the practice of Massage Therapy or other Bodywork;
 8. Negligence, gross negligence, or incompetence, as determined by a judge or court;
 9. Deceptive, untrue, or fraudulent billing, charges, use of title, terms or representations in the practice of Massage Therapy or other Bodywork; or
 10. Fraud, misrepresentation, or false statement contained in any application for a License.
- (B) Disciplinary Actions. The City Clerk may impose the following disciplinary actions upon any person or entity for one or more of the Grounds for Disciplinary Action of this subsection:
1. Refuse to issue, renew, or reinstate a License;
 2. Revoke, suspend, restrict, or limit a License;
 3. Place a License holder on probation, including placing limits on the licensee's practice and/or requiring supervision;
 4. Issue a reprimand; or
 5. Require payment of a fine; or
 6. Refer the matter to the City Prosecutor or other appropriate entity for criminal sanctions, pursuant to Section 6-2018.
- (C) Summary Suspension: The City may impose an immediate suspension of licensure in cases where continued practice by a Bodywork Practitioner poses an imminent and continuing threat to public health, welfare, or safety so long as the City Clerk schedules a hearing to occur within 14 days of the effective date of the suspension order.
- (D) In any case where a License is revoked, the City Clerk shall cause a Notice of Revocation to be issued in writing and such Notice shall be mailed by certified mail to the licensee, the Notice shall inform the licensee of the reason for revocation and shall state that the license holder has fourteen (14) days from the date of the Notice of Revocation is received to appeal the revocation, as provided for in Section 6-2015. Such Notice of Revocation shall be effective on the date it is received by certified mail. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files and shall transmit a copy of the Notice of Revocation to the Chief of Police.

6-2018

MUNICIPAL OFFENSE.

(Ord. 9305)

(A) It is unlawful for any person or entity to:

1. Engage in conduct that violates any provision of this Article;
2. Aid or abet another person in the violation of any provision of this Article;
3. Own, operate, or manage a business which employs, contracts with, or allows one or more unlicensed persons to offer or provide Massage Therapy or other Bodywork;
4. Represent, hold out, offer or advertise that he or she is a licensed Bodywork Practitioner unless licensed by the City;
5. Advertise or use the words Massage Therapy, massage, massage-Bodywork, Bodywork, massage Bodywork Practitioner, massage therapist, Bodywork Practitioner, Structural Integration, Reflexology, Reiki or Other Energy Work, or the letters "LMT" or any other words, abbreviations or insignia indicating or implying that Massage Therapy or other Bodywork is provided, or supplied, unless such persons providing the services are licensed pursuant to this Article;
6. Commit fraud, deceit or misrepresentation in obtaining or attempting to obtain or renew a License; or
7. Misuse a License certificate, including sale or barter of a License; use of another's License; or allowing use of a License by an unlicensed person or entity.

In addition to any administrative disciplinary sanctions imposed pursuant to Section 6-2017, any person, upon an adjudication of guilt or the entry of a plea of no contest under this Section, shall be subject to a maximum fine of \$1,000.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.