

CHAPTER 5. BUSINESS REGULATIONS

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ARTICLE 1. GENERAL PROVISIONS

5-101. DEFINITIONS. For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates to the contrary:

(1) Adult cabaret - means an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers, or members, in a viewing area which is designed for occupancy by more than five persons, any live exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

(2) Adult entertainer arcade - means an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, in viewing areas which are designed for occupancy by no more than five persons, any live exhibition, performance or dance of any type by persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

(3) Adult entertainment business - means an adult entertainer arcade or an adult cabaret.

(4) Adult entertainment facility - means any building, structure or facility which contains or is used for commercial entertainment, including theaters used for presenting live presentations, or for presenting videotapes or films predominantly distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities, and including adult cabaret facilities and adult entertainer arcades (regardless of whether the theater, facility or arcade provides a live

presentation, videotape or film presentation), where the customers either (1) engage in personal contact with or allow personal contact by employees, devices or equipment or by personnel provided by the establishment which appeals to the prurient interest of the patrons, or (2) observe any live presentation, videotape or film presentation of persons with specified anatomical areas exposed or covered only with transparent covering or, in the case of female persons, with the areola and nipple of the breast exposed or covered only with transparent covering, or observe specified sexual activities.

(5) Adult entertainment facility premises - means the bounds of the enclosure of an adult entertainment facility that is licensed, or part of which is licensed, as an adult entertainment business.

(6) Alarm system means an assembly of equipment and devices for a single device such as a solid state unit which plugs directly into a 110 volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. The term "alarm system" shall include the terms "burglar alarm systems," and "hold-up alarm systems."

(7) Alarm user means any person on whose premises an alarm system is maintained within the city, whether connected to the city system or not, except for alarm systems on motor vehicles or proprietary systems. If however, an alarm system on a motor vehicle is connected with an alarm system at a premises (other than a proprietary system) the person using such system is an alarm user.

(8) Amusement Enterprise - any person operating any carnival, circus, street fair or similar public performance or providing amusement rides, or dispensing food and beverages in connection with such carnival, circus, or fair.

(9) Answering service refers to a telephone answering service providing among its services the service of receiving on a continuous basis through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message to the communications center.

(10) Automatic dialing device refers to any alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(11) Bank protection act refers to United States Public Law 90-389 (Bank Protection Act of 1968), or amendments thereto.

(12) Bankrupt, Fire or Closing Out Sales - any sale of goods or merchandise at retail that is represented as a bankrupt, closing out, quitting business, liquidation, fire damage, smoke damage, water damage, or other similar sale.

(13) Burglar alarm system refers to an alarm system signaling an entry or attempted entry into the premises protected by the system.

(14) Carnival - means any amusement show consisting of vaudeville, sideshows, games, amusements or mechanical rides, or any of them.

(15) Central station shall mean any facility, central station, modified central station or answering service operated by any person engaged in the occupation of selling, renting, leasing, installing, maintaining, operating or

repairing an alarm system which facility is manned at all times by operators employed to receive, record and validate alarm signals transmitted to such facilities and to relay information about such signals to the police department by a direct telephone line.

(16) Charitable shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic, or fraternal.

(17) Charitable Organization - means any entity that has a permanent physical location within the City of Liberal, Seward County, Kansas which: (1) has been certified as a not-for-profit organization under the Internal Revenue Code, and/or (2) has religious, charitable, or benevolent functions. As used in this definition, a charitable organization is an organization which exclusively, and in a manner consistent with existing laws, operates to address and assist with physical, mental, or spiritual needs of persons. Commercial, for profit organizations or businesses shall not be considered charitable organizations. (2023; Ord. 4592)

(18) Circus shall mean an amusement show, sometimes held in a tent, consisting of a variety of performances such as acrobats, clowns, trained animals, musicians, amusements, or any of them.

(19) City Clerk shall mean the City Clerk of the City of Liberal, Kansas.

(20) Customer means any person who:

(a) Is allowed to enter an adult entertainment business in return for the payment of an admission fee or any other form of consideration or gratuity;

(b) Enters an adult entertainment business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(c) Is a member of and on the premises of an adult entertainment business operating as a private club.

(21) Direct connection means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the city; for example, a police communication center.

(22) Direct line means a telephone line leading from a central station to the communication center of the police department, that is for use only to report emergency signals on a person-to-person basis.

(23) Employee - means any person who renders any service whatsoever to the customers of an adult entertainment business or who works in or about an adult entertainment business and who receives compensation for such service or work from the operator or owner of the business or from the customers therein. The term "employee" includes managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult entertainment business; or

Any person 18 years of age or over who renders any service in connection with a massage shop, nude modeling studio or body painting artists establishment and receives compensation from the operator of such establishment or patron thereof. This definition shall include persons

apprenticing in massage shops in preparation to becoming massagists, masseurs or masseuses under the provisions of this chapter.

(24) Entertainer - means any person who provides adult entertainment within an adult entertainment business, whether or not a fee is charged or accepted for entertainment.

(25) Entertainment - means any exhibition or dance of any type, pantomime, modeling or any other performance.

(26) Establishment. Any establishment having a place of business where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned herein for compensation.

(27) False alarm means an alarm signal eliciting a response by the police where an emergency situation does not in fact exist, but does not include an alarm caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

(28) Holdup alarm system refers to an alarm system signaling a robbery or an attempted robbery.

(29) Interconnect means to connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(30) Itinerant business - means any person, business, corporation, association, or other entity, however organized, engaging temporarily retail sale of goods, wares, merchandise, or services within the city, any person who for the purpose of conducting such business, rents, leases occupies any room, building, hotel, motel, structure, parking lot, vacant lot, motor vehicle of any kind, to sell goods, wares, merchandise, or services, or that goes place to place, or door to door, that may include, but not be the premises of a private residence, not having been invited by the for the purpose of taking or attempting to take orders for the sale of goods, wares, merchandise, or services for immediate or future delivery. A vendor, as defined in this section, shall not be considered an itinerant

(2023: Ord. 4592)

(31) Licensee - means any person to whom a license has been issued to own or operate any establishment provided for under the provisions of this chapter.

(32) Local alarm system - refers to a signaling system which when activated causes an audible or visual signaling device should be activated in or on the premises within which the system is installed.

(33) Local Itinerant Business - is a license for any business that has a permanent physical location of not less than 1,000 square feet of retail, office, or warehouse space within the city, and has operated at the location for a minimum of twelve (12) consecutive months. (2023: Ord. 4592)

(34) Manager - means any person who manages, directs, administers or is in charge of the affairs or conduct of any portion of any activity, including adult entertainment, occurring at an adult entertainment business.

in the
including
or
or
limited to,
occupant,
mobile food
business.

(35) Massage - means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of, the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances, without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, 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 therefor. This definition shall also include treatment of the human body by means of baths of all kinds, including all forms and methods of hydrotherapy.

(36) Massage shop - means any establishment having a source of income or compensation derived from the practice of massage, and which has a fixed place of business where any person, firm, association or corporation engages in or carries on any of the activities defined as massage in this section.

(37) Massagist, masseur and masseuse - means any person permitted as such who, for any compensation whatsoever, engages in the practice of massage as defined in this section.

(38) Mobile food vendor - means any person, business, corporation, association or other entity, however organized, that offers food and/or beverage for sale from any self-contained motor vehicle. (2023; Ord. 4592)

(39) Music, Amusement Machine - any machine, device or contrivance which is intended to furnish music, entertainment or amusement, including electronic game machines. Machines displayed or operated on premises occupied by fraternal, benevolent, educational or other nonprofit organizations are exempt from the provisions of this chapter.

(40) Noncommercial activity - means any activity conducted for personal use or enjoyment without the intent of realizing a profit or recovering costs through the sale of goods, wares, merchandise or services. (2023; Ord. 4592)

(41) Non-Local Itinerant Business License - is a license for any business that does not have a permanent physical location of at least 1,000 square feet of retail, office, or warehouse space within the city, or has a permanent physical location within city but has not operated at the location for the minimum requirement of twelve (12) consecutive months.(2023, Ord 4592)

(42) Operator - means any person operating, conducting or maintaining an adult entertainment business.

(43) Outcall service - means any business, the function of which is to engage in or carry on services licensed or permitted under this chapter at a location designated by the patron or client rather than at licensed premises.

(44) Owner - means the proprietor, if a sole proprietorship; all partners (general and limited), if a partnership; or all officers, directors and persons holding ten percent or more of the outstanding shares, if a corporation.

(45) Patron - means any person the age of 18 years or older who receives the benefit of the services of any establishment or occupation provided for in this chapter under such circumstances that he or she will pay money or give any other consideration therefor.

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

(47) Peddler - means any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, food, drink, truck garden or farm products or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car, or other vehicles or conveyance without first having received an invitation or permission from the owners or occupants of the premises to go upon the same for such purpose. The word "peddler" shall include the words "hawker" and "huckster."

(48) Person - means any individual, partnership, corporation, trust, incorporated or unincorporated, association, joint venture, governmental entity, or other entity or group of persons, however organized.

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

(50) Precious metal dealer - means any person who engages in the business of purchasing precious metals for the purpose of reselling such metal in any form.

(51) Premises shall mean any building or property used for residential, commercial, educational or industrial activity.

(52) Public Dancehall - a place where dances are conducted or given for profit and to which persons generally are permitted to go and participate for an admission fee charged under any form or guise whatsoever. The term shall not apply to fraternal, benevolent, educational or other nonprofit organizations which hold dances, the proceeds of which accrue to such organization.

(53) Public place - means any area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles, whether moving or not.

(54) Recognized school - means any school or institution which has for its purpose the teaching of the theory, method, profession or work of massage, which requires the successful completion of a resident course of study of not less than 70 academic credit hours before the student receives a diploma or certificate of graduation, and which has a resident course of study including no less than 100 hours of classroom instruction on anatomy and physiology, 300 hours of classroom instruction on the theory and practice of massage and 20 hours of classroom instruction on health and hygiene.

(55) Registered solicitor or peddler shall mean and include any person who has obtained a valid certificate of registration as hereinafter provided,

which certificate is in the possession of the solicitor or peddler on his or her person while engaged in soliciting or peddling.

(56) Religious shall not mean and include the word charitable as herein defined, but shall be given its commonly accepted definition.

(57) Sexual or genital area means genitals, pubic area, buttocks (except in massage), anus or perineum of any person, or the vulva or breasts of a female.

(58) Solicitor. A solicitor is any person, whether a resident of the city, or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever, for future delivery, or for services, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he or she is collecting advance payment of such sales or not without first having received an invitation or permission from the owners or occupants of the premises to go upon the same for such purposes.

(59) Specified anatomical areas means:

(a) Uncovered or exposed:

1. Human genitals, pubic region or pubic hair;
2. Buttock;
3. Female breast or breasts below the top of the areola; or
4. Any combination of such areas; or

(b) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

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

(61) Taxicab is any motor-driven passenger vehicle used for transportation of passengers for hire within the city;

(62) Taximeter is a mechanical device affixed to a taxicab and designed to measure a distance traveled and to calculate the charge therefor.

(63) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer, or by conducting

such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. Nor shall such definition include any person or persons invited on premises currently being used for retail sales, or part of a sponsored community promotion.

(64) Tree means a woody perennial plant having an upright stem with many branches, and upon maturity being over 10 feet in height.

(65) Viewing area means the area where a customer or member would ordinarily be positioned while watching an exhibition, performance or dance.

5-102. LICENSE REQUIRED. No person, either as principal, agent or employee, shall conduct or pursue in this city any business, trade or occupation enumerated in this chapter without first paying to the city clerk the license tax. Fees are set annually in the budget resolution and are found in Exhibit C - Fee Schedule.

5-103. SAME; NOT TRANSFERABLE. No license issued under this chapter shall be transferable or assignable.

5-104. SAME; CITY TO ISSUE. (a) All licenses required under this chapter shall be issued by the city upon the filing of a proper application and payment of the required license fee.

(b) Each license shall show the name of the licensee; the kind of business; the location of the business and the date of expiration of the license.

5-105. SAME; RECORD. The city shall record in a book kept for that purpose the name and address of each person licensed, the date of the license, the name and address of the business for which issued, and the date when the license shall expire.

5-106. SAME; TO BE DISPLAYED. (a) All persons doing business in a permanent location are required to keep their license conspicuously displayed in their place of business.

(b) All persons not having a permanent place of business are required to carry their licenses with them and shall present the license for inspection upon request by any citizen or officer of the city.

5-107. LICENSES AND PERMITS; GENERAL. (1) No license or permit for a particular location shall be issued unless the personal property and real estate taxes for that location are paid in full or timely under protest.

(2) No license or permit shall be issued until the license or permit fee set annually during the budget process, or amended from time-to-time by resolution of the City Commission, shall be paid in full. The licensee or permittee shall receive and keep the receipt for payment of the fee.

(3) It shall be a Class C violation, as well as requiring a forfeiture of the license or permit, for a licensee or permittee to obtain a license or permit by fraud or misrepresentation, or to transfer to another location or person or entity, and the licensee or permittee will not allow someone who is not licensed to perform all or part of the work to be done by a properly licensed person or entity, unless and only to the extent that the person is a bona fide employee of the person or entity licensed (and such license permits an employee rather than the licensee or permittee to perform the function) or the subcontractor is hired and properly licensed by the City of Liberal to perform the work and only performs that work which the subcontractor is licensed to perform.

(4) Any lost or destroyed license or permit shall be subject to a replacement fee. Fees are set annually in the budget resolution and are shown in Exhibit C-501.

(5) Any City of Liberal licensee which also requires a state or federal license shall automatically terminate and become null and void if the licensee or permittee no longer has a valid state or federal license.

5-108. REVOCATION. Any license issued under this chapter may be revoked upon notice to the licensee and the opportunity for a hearing before the governing body for the violation of any provision of this chapter or other applicable laws of the city relating to the business, trade or occupation for which the license provided in this chapter has been issued.

5-109. USE OF STREETS, SIDEWALKS AND PUBLIC PROPERTY. (a) The streets, sidewalks and public property of the city shall not be used for the display, storage or sale of merchandise of any kind, except where the person or organization desiring to use any city street, sidewalk or public property for such purpose has petitioned for, and received from the governing body, a permit authorizing such use and sponsored by a community event.

(b) Soft drinks, ice cream, dairy products, foods and drink may be sold by a registered solicitor or peddler from specially equipped vehicles which meet all city health and sanitation requirements. No vehicles, however, shall have any exclusive right to any location in the public streets, sidewalks or public property, nor shall any vehicle be permitted a stationary location, unless the property is leased by the City.

5-110. COIN-OPERATED MACHINE TAX; PER OPERATOR. There is hereby levied upon each operator of coin operated music devices and amusement machines within the city an annual occupation tax per operator. Fees are set annually in the budget resolution and are shown in Exhibit C-502.

5-111. COIN-OPERATED MACHINE TAX; PER MACHINE. There is hereby levied upon each operation of coin operated amusement machines and coin operated music devices within the city an annual occupation tax for each coin operated amusement machine and coin operated music device. Fees are set annually in the budget resolution and shown in Exhibit C-503.

- 5-112. SAME; LICENSE. Upon payment of the occupation tax herein levied, the city clerk shall issue the operator a receipt/sticker (license) for payment of such occupation tax, which receipt shall show upon its face the current year which has been paid for, an identification number and the receipt/sticker shall be prominently displayed on the device. The operation of coin operated music devices or amusement machines shall be deemed a separate occupation from all other occupations.
- 5-113. MISCELLANEOUS OFFENSES. (1) It shall be a Class C violation for any person to sell, solicit, or offer for sale, any article, thing, or personal service, in or upon any street, sidewalk, alley, public way, public building, public park, or city owned property, unless express written authority to do so is provided by the City Commission or the City Manager or his designee.
(2) It shall be a Class B violation for any person to knowingly, without the consent of the registrant, to sell or offer for sale any goods or services containing any reproduction, counterfeit, copy, or colorable imitation of a trademark or tradename.
(3) It shall be a Class C violation for any person upon roller skates, roller blades, or riding on or by means of a skateboard, coaster or similar device to go upon any street, sidewalk, or other public right of way within a commercial zone.
(4) It shall be a Class C violation for any person to enter into any fountain in a City park or on public property.
(5) It shall be a Class B violation for anyone to receive, provide, or assist in branding a person in the City limits.
- 5-114. LICENSE REQUIRED FOR CERTAIN AMUSEMENTS. (a) No person shall keep or operate a billiard or pool hall, bowling alley, shooting gallery, skating rink, penny or picture arcade, cabaret or floorshow, amusement parlor or hall, recreation hall or room, haunted house type facility or other commercial amusement place open to public patronage within the limits of the city without first securing and having in effect a license from the City Clerk to operate such enterprise.
(b) No person shall let or lease to any other room, building or real estate for the purpose of keeping or operating therein or thereon any such commercial amusement unless a license shall have first been obtained by the lessee under the provisions of this article.
(c) This article shall not apply to rodeos, carnivals, open-air circuses, dance halls, musical concerts or theaters or motion picture theaters.
- 5-115. PERMITS NOT ISSUED TO CRIMINALS. A permit shall not be issued to any applicant who has been convicted of a felony or other offense involving moral turpitude.
- 5-116. RIGHTS OF ACCESS FOR PURPOSE OF INSPECTION. The City and its agents shall at all times have free access to the places of commercial amusement described in Section 5-114, and may enter therein for the purpose of making inspections.

5-117. PROHIBITED ACTS BY LICENSEES AND EMPLOYEES. It shall be unlawful for any licensee mentioned in this chapter, or his agent, servant or employee, to:

(1) Permit the licensed premises to remain open for business between the hours of 2:01 a.m. and 9:00 a.m., except when operating under a special permit granted by the City Manager or his designee. Such permit shall be granted if there is no indication that such will contribute to crime, delinquency or disturbance to neighborhoods or be harmful to the public welfare, and:

a. When patron groups, swing shifts and other people similarly situated are unable to use such facilities during normal hours of operation;

b. In order to complete state, national or other major sport tournaments;
or

c. Special situations where normal hours of operation are not adequate for the needs of citizens participating in lawful recreation.

Any special permit issued under the provisions of subsections (1) a, b and c of this section shall be revoked by the City Manager or his designee whenever measures required by this section shall cease to exist.

(2) Violate any law, rule or regulation.

5-118. DENIAL OR RECALL OF PERMIT. (a) Authority of City Manager or his designee. The City Manager or his designee shall not issue any permit or authorization for a license, and shall suspend, recall, or revoke any such permit or authorization already issued, for the operation of any business or establishment mentioned in this chapter, at any location where, from previous experience or upon investigation, it is found that the operation of such business or establishment has or will, violate the law, create a neighborhood nuisance or disturbance, prove a menace to the public safety, or impair the health, peace or comfort of persons working or residing in the vicinity.

(b) Appeals. Any person wishing to appeal from any refusal to issue, suspension, recall, or revocation of any such permit or authorization may request a hearing before the governing body within ten days after such refusal, suspension or recall, and may present such evidence bearing upon the subject as they may desire. The governing body may affirm the subject as they may desire. The governing body may affirm, reverse or modify the action appealed from, as justice may require.

5-119. LIABILITY INSURANCE. As a condition precedent to a license being issued under Section 5-114, the applicant shall furnish to the city a certificate of insurance, in a company approved by the City Manager or his designee, meeting the following requirements:

(1) The policy shall provide for liability insurance with a combined single-limit policy of \$500,000.00.

(2) The city shall be added as an additional named insured to such policy by separate endorsement.

(3) The policy shall contain a separate endorsement requiring the insurance company to notify the city in writing of any change in or cancellation of the policy at least ten (10) days prior thereto.

(4) Before the license is issued or renewed, the permittee shall deposit with the City a certificate of insurance evidencing that the endorsements required by subsections (2) and (3) of this section have been issued.

5-120. VIOLATIONS. It shall be unlawful for any person to operate as a business any coin operated music box, music machine or amusement machine within the city without having comply with this Article, and violation shall be punished by a fine of not less than \$100 or more than \$300 per device, and/or confiscation of the machine(s) by the city.

ARTICLE 2. BURGLAR, FIRE ALARM SYSTEMS

5-201. PERMITS REQUIRED. All users of the city's burglar alarm or fire alarm detection system shall obtain an alarm users permit for each premise from the city prior to use of an alarm system. Systems using burglary and fire alarm capabilities will be required to obtain a separate permit for each function. Application for the permit shall be made upon a form provided by the city and kept at the Communications Center. The applicant shall provide and maintain in full the current information on the application, to-wit:

- (1) Name and address of present place of residence; also business address if other than present address.
- (2) Name, address and telephone number of premises where alarm system will be operated.
- (3) Names of three responsible persons to contact in case of an emergency.
- (4) Type of permit (burglary-fire).

5-202. FEES. (a) A fee is to be charged for the issuance of a permit for the city's system. If City (or Communications Center) is not contacted, the fee will be doubled. Fees are established annually in the budget resolution and are shown in Exhibit C-504.

(b) There is hereby levied on all firms, corporations, organizations and political units now or hereafter connected to the city's burglar alarm and fire alarm detection system a charge per month for the monitoring of the system or a charge per call after the third response call per year. Fees are set annually in the budget resolution and are shown in Exhibit C-504.

(c) Billings for alarm use shall be rendered by the accounts payable division of the finance department.

(d) In the event any person operating on premises connected to the alarm system shall fail, neglect or refuse to pay the alarm charge fixed herein, the city following certified mail, return receipt notice of non-payment and following possession of return receipt, may discontinue the service to the user, and disconnect the alarm system.

5-203. INSPECTION. For the purpose of enforcing the provisions of this article, the police chief shall have the authority, at reasonable times and upon reasonable oral notice, to enter in the premises in the city in or upon which

alarm systems or alarm businesses subject to this article are located to inspect the installation or operation of such alarm systems or alarm businesses on official police business.

5-204. TESTING EQUIPMENT. No alarm system designed to transmit its emergency message directly to the communications center shall be tested or demonstrated without first obtaining permission from the city. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the communications center unless the messages are to be relayed to the communications center.

5-205. FALSE ALARMS; ALARM SYSTEM USERS NOT SUBJECT TO BANK PROTECTION ACT. Any person, other than a financial institution subject to the Bank Protection Act, shall not be assessed any penalty for the first false alarm in any one calendar month, provided alarms caused by interruption or interference, Acts of God, sonic booms, traffic accidents or mechanical malfunction or failure may be excused. No other causes will be excused. Each subsequent false alarm will require a fee per call if the Police Department (or Communications Center) is contacted directly. If the alarm goes through a security or monitoring company, there will be also be a fee required per call. Fees are established annually in the budget resolution, and are shown in Exhibit C-505.

5-206. FILING FORM. All alarm users not attached to the city's system may complete a form to be provided by the communications center and file it with the communications center. This form shall provide the information contained in section 5-202(1), (2) and (3), and give the police department permission to turn the alarm off or disconnect the alarm if it goes off when the user is unavailable or cannot be contacted.

ARTICLE 3. OIL, GAS DRILLING

The City Commission recognizes that the oil and gas industry is important to the Liberal community, and also recognizes the importance of minimizing, through appropriate regulation, the adverse impacts that oil and gas drilling within the City limits may have on the health, safety, and welfare of the City and its citizens; and

The City Commission has determined that in order to preserve the health, safety and welfare of the City residents, oil and gas drilling operations should be banned on land within the City, along with the storage in open pits of solid or liquid wastes and/or flowback created in connection with the oil and gas drilling operations; and

The City Commission has further determined that in order to respect the rights of existing oil and gas operators in the City, the proposed ban on oil and gas drilling operations on land within the City limits should not apply to any oil or gas wells or pad sites existing within the City as of the effective date of this ordinance.

The City Commission has imposed a ban on all oil and gas drilling operations within the City. (2015; Ord. 4446)

- 5-301. Notwithstanding any other provision of this Code, the City shall not allow oil and gas drilling operations on lands located within the City.
- 5-302. The prohibitions contained in Section 5-301 shall not apply to any producing oil or gas wells or pad sites existing within the City on the effective date of this ordinance.
- 5-303. Nothing contained herein shall prohibit exploration or drilling of a horizontal or directional nature, so long as the surface of any land located within the City is not impacted. Further, prior to commencing any exploration or drilling of a horizontal or directional nature, the developer must agree to dedicate any oil and gas so discovered, or so much thereof as may be required by the City, to the City. Finally, prior to commencing any exploration or drilling of a horizontal or directional nature, the developer must obtain the written consent of the City. (2015; Ord. 4446)

ARTICLE 4. TAXICABS

- 5-401. **APPLICATION FOR LICENSE.** Any person desiring to operate, or continue to operate, any taxicab along and through the streets, avenues and alleys of the city shall first make written application to the city clerk on blanks furnished by the city, which application shall state that the taxicab or taxicabs are properly equipped, specifying the make of the cab, engine number or serial number of each and shall pay a license fee as required by the city, and shall furnish liability insurance as hereinafter set forth. Fees are set annually in the budget resolution and are shown in Exhibit C-507.
- 5-402. **RESPONSIBILITY.** Any person, firm or corporation who shall make application for a license as aforesaid shall be held responsible for the driver or drivers placed in charges of the taxicabs operated and the application shall contain as a part thereof, a statement on the part of the applicant acknowledging such responsibility.
- 5-403. **INSURANCE.** No license shall be granted to any applicant until the applicant deposits with the city clerk a policy or certificate of insurance covering each taxicab for which license is sought. The insurance shall be acceptable to and approved by the governing body and issued by a company authorized to do business in the State of Kansas. The policy shall provide \$500,000 single limit liability policy, with the City named as an additional named insured.
- The policy of insurance shall not be canceled prior to its expiration except upon 10 days' notice in writing to the city clerk. Upon the cancellation or expiration of such policy of insurance it shall be unlawful to operate such taxicab in the city until a policy of insurance meeting the requirements of this

section shall have been deposited with the city clerk. In lieu of such policy or certificate of insurance the applicant may deposit with the city clerk the bond of a surety company. The bond, which shall be acceptable to and approved by the city clerk and issued by a company authorized to do business in the State of Kansas, shall run to the City of Liberal, Kansas, and be conditioned to secure payment in the same manner as hereinabove set forth in respect of the policy of insurance. The cancellation of such bond and the effect thereof shall be the same as in the case of such policy of insurance.

- 5-404. EXCHANGING CABS. In case a licensed taxicab is taken out of service as a taxicab and another taxicab is substituted in its place, a new license shall be issued for the taxicab so substituted upon surrender of the old license and payment of a fee. Fees are established annually in the budget resolution and shown in Exhibit C-508.

ARTICLE 5. TREE TRIMMERS

- 5-501. EXEMPTIONS. This article shall not apply to any person working at his or her own residence or established place of business or to employees of the person working thereon. This article shall not apply to officials or employees of the federal, state, county or city governments engaged in the performance of their official duties, nor to any company or corporation with a valid franchise agreement.
- 5-502. LICENSE REQUIRED. No person shall engage in the business or trade of trimming, removing and pruning of trees within the city without first having obtained a license therefor.
- 5-503. LICENSE APPLICATION REQUIRED. A written application for a license for the trimming, removal and pruning of trees shall be filed with the city clerk. The application shall meet the following requirements.
- (a) Name, business address, and phone number of applicant.
 - (b) Filing of certificate of liability insurance.
 - (c) Payment of the required license fee.
- 5-504. APPROVAL OF LICENSE APPLICATION. Licenses required by this article shall be issued by the city clerk only after the application therefore has been approved by the governing body.
- 5-505. LICENSE FEE. The city clerk shall collect an annual license fee from applicants as established annually in the budget resolution and are shown in Exhibit C-509.
- 5-506. INSURANCE. Each person who makes application for a license or renewal thereof under this article shall furnish a certificate of liability insurance covering the work in which they are engaged and upon the terms and conditions hereinafter set out. The certificate of insurance shall show that the applicant is covered by an effective liability insurance policy issued by a

solvent corporation authorized to do business within the State of Kansas and shall be issued with minimum limits of \$500,000 per person and \$500,000 per accident for bodily injury and \$500,000 for property damage, indemnifying and holding harmless the city and name it as an additional insured on such liability policy. The insurance policy shall not be canceled or terminated until at least 20 days after a notice of cancellation of the insurance policy is received by the city clerk.

5-507. REFUSAL TO GRANT OR REVOCATION OF LICENSE. The governing body may at any time revoke a license or decline to grant a license under the following circumstances:

(a) The licensee shall fail to furnish an acceptable written certificate of public liability insurance within 20 days from the date notice is received from the city that the insurance policy previously furnished by the licensee is to be cancelled or terminated.

(b) The licensee or any employee, solicitor, agent, or representative of the licensee has made any material misrepresentations for the purpose of defrauding any member of the public.

5-508. EXPIRATION OF LICENSES. Licenses issued under this article shall expire on the 31st day of December of the year for which the same are issued.

5-509. TRANSFERABILITY OF LICENSES. A license granted hereunder shall not be transferable. When there is a change in the business status of the licensee, the successor shall have 60 days within which to obtain a license as provided by the terms and conditions of this article; provided, that in the event of the death of an individual, his or her heirs or representatives shall be allowed 60 days within which to obtain a license and such additional times as may be granted by the city for cause within its discretion.

5-510. PENALTY. Any person convicted of a violation of any provision of this article shall be fined not less than \$100 and not more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE 6. SOLICITORS AND PEDDLERS

5-601. CERTIFICATE OF REGISTRATION. Every person desiring to engage in activities of solicitor, peddler, transient merchant, itinerant merchant or itinerant vendor within this city, is hereby required to make written application for a certificate of registration as hereinafter provided. Such certificate shall be carried by the solicitor or peddler.

5-602. SAME; APPLICATION. Application for certificate of registration shall be made upon a form provided by the city. The applicant shall truthfully state in full the information on the application, at a minimum, to wit:

- a) Name and address of present place of residence and the length of residence at such address; also business address if other than present address;
- b) Address of place of residence during the past three years if other than present address;
- c) Age of applicant - applicant must be at least 18 years of age;
- d) Physical description of applicant;
- e) Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;
- f) Name and address of employer during the past three years if other than present employer;
- g) Description sufficient for identification of the subject matter of the soliciting or peddling in which the applicant will engage;
- h) Specific period of time and hours of operation for which the certificate is applied;
- i) The date, or approximate date, of the latest previous application for certificate under this article, if any;
- j) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the city, or by any department or officer thereof;
- k) A statement whether or not a certificate of registration issued to the applicant under this article has ever been revoked;
- l) A statement whether or not the applicant has ever been convicted of a felony under the laws of the State of Kansas, or any other state or federal law of the United States;
- m) Such other information as the city manager or his designee may deem necessary for the proper police protection of the city;
- n) An applicant for a solicitor's or peddler's permit shall supply the city clerk with a photograph of the applicant taken within at least 60 days before submission of the application, which photographs shall be at least one inch by one inch, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- o) An applicant may submit an application for a certificate of registration by mail upon a form furnished by the city, provided the applicant appears in person to receive the certificate of registration;
- p) An applicant shall file a copy of the company's or individual Kansas sales tax certificate with the city clerk prior to issuance of the license;
- q) An applicant shall file written permission from the property owner, if engaging in temporary business on private property, with the city clerk prior to issuance of the license; and
- r) Written proof that all products or services are trademarked or registered for sale by the applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

5-603. SAME; ISSUANCE; RECORDS. (a) The city clerk shall issue all certificates of registration. No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws

of the State of Kansas or any other state or federal law of the United States, within ten years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this article nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

(b) Such certificate shall contain the signature and seal of the issuing officer; shall show the name and address of the licensee; the class of license issued; the amount of fees paid; the date of issuance and the length of time the same shall be operative.

(c) The city clerk shall cause to be kept in his or her office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this article and of the denial of applications. Applications of certificates shall be numbered in consecutive order as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

5-604. FEES. (a) The fee to be charged for the issuance of a certificate of registration to a solicitor, peddler, transient merchant, itinerant merchant or itinerant vendor shall be established annually in the budget resolution and are shown in Exhibit C-510. In no event shall any certificate of registration be issued for more than a 30 day period.

5-605. EXPIRATION. The certificate shall remain in force and effect for the period specified therein, and shall be renewed upon the expiration of this period upon filing a new application as provided in section 5-602 of this chapter and upon payment of fees as prescribed in section 5-604.

5-606. REGULATIONS. (a) It shall be unlawful for any peddler or solicitor, or any person in his or her behalf to:

(1) Shout, make an outcry, blow a horn, ring a bell, or use any sound device or musical instrument, including any loud speaking radio or sound amplifying system, on any of the streets, alleys, parks, or other public places of the city or on any private premises in the city where sound of sufficient volume is emitted or produces therefrom to be capable of being plainly heard on the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell;

(2) To violate the provisions of section 5-109 of this chapter;

(3) Solicit or peddle from 7:00 p.m. to 9:00 a.m. or at any time when a sign has been posted on a building stating "No solicitors or peddlers," or words to that effect, except that a licensed solicitor or peddler may call upon the occupant of a residence at other times when he or she has received express prior permission from such occupant to do so;

(4) Solicit within the city for a contribution of funds for a charitable, religious, educational, community, recreational or similar nonprofit purpose by means of calling upon places of residence or by means of direct personal contact in public places or upon public property without obtaining a permit as

provided by this article. Any peddling or soliciting as defined in this article by means of representation that all or a portion of the proceeds thereof are to be used for a charitable, or similar nonprofit purpose, or are to be transmitted to any person, firm, or corporation for any such purpose, is unlawful unless a permit is first obtained as provided by this article.

(5) Refuse to exhibit their certificate of registration at the request of any citizen;

(b) It shall be a violation of this article for any person holding a certificate to allow another person to use his or her certificate;

(c) It shall be a violation of this article for any person holding a certificate to enter a residential dwelling without first being invited into the residence, or to remain in the residence after being asked to leave; and

(d) A sales period, as used in this article, is hereby defined as being that portion of a calendar year not exceeding 30 days for which a certificate of registration is used.

5-607. EXEMPTIONS. Article 6 shall not apply to any of the following:

(a) City approved non-profit organizations, which shall be nationally or Kansas recognized religious, philanthropic, or service organizations which are either locally sponsored by ten (10) Seward County residents or who have petitioned the City of Liberal with one-hundred (100) signatures from Seward County registered voters;

(b) School sponsored fund raising activities done by children under the age of 18, accompanied by an adult, and used to raise money for a school or school sponsored activity;

(c) Any person or entity who currently provides residential or door-to-door services or products to an existing customer, until such customer indicates that they no longer wish to be contacted at home;

(d) Any home owner who initiates a contact with a person or entity to buy products or services to be sold to them in their home.

The last two exemptions shall only be allowed to persons or entities that have written proof of prior residential customers or written proof that the resident of the home initiated the contact with them, and such written proof will be made available to the City Clerk or her designee for inspection, each person delivering products or services to a customer under these exemptions shall supply the city clerk with a photograph of the applicant taken within at least 60 days before submission of the application, which photographs shall be at least one inch by one inch, showing the head and shoulders of the applicant in a clear and distinguishing manner, and shall pay an annual fee which shall be established annually in the budget resolution and is shown in Exhibit C-510.

5-608. REVOCATION OF CERTIFICATE. Any certificate of registration issued hereunder shall be revoked by the chief of police if the holder of the certificate is convicted of a violation of any of the provisions of this article, or has made a false material statement in the application, or otherwise become disqualified for the issuance of a certificate of registration under the terms of this article. Immediately upon such revocation, written notice thereof shall be given by the city clerk to the holder of the certificate in person or by certified United States

mail addressed to his or her residence address set forth in the application. Such notice shall inform the holder of his or her right to a hearing before the governing body for purposes of challenging the grounds for revocation.

5-609. DUTY OF POLICE TO ENFORCE. It shall be the duty of any police officer of the city to require any person seen soliciting or peddling and who is not known by such officer to be duly licensed, to produce his or her certificate of registration and to enforce the provisions of this article against any person found to be violating the same.

5-610. PENALTY. Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than \$500 for each offense or shall be imprisoned for a period of not to exceed 90 days, or shall be both so fined and imprisoned.

ARTICLE 7. MASSAGE SHOPS

5-701. OPERATION GENERALLY. The operation of any massage shop licensed under this chapter shall be subject to the following regulations:

(1) Posting of license; displaying of employee permits. Every licensee shall prominently display his license in either the reception portion of his establishment or in some location therein generally exposed to patrons of such establishment. Each employee shall keep available his permit or his person at all times while on the licensed premises.

(2) Register of employees. The operator of any establishment licensed under the provisions of this chapter shall maintain a list of all employees currently employed by such establishment and the employee permit numbers. Such register shall be available at such establishment during the business hours to any investigator of the City or members of the City police department.

(3) Cleanliness. Every portion of an establishment licensed under this chapter, including the appliances and apparatus, shall be kept clean and the premises operated in a sanitary manner.

(4) Posting of price lists. Price lists for the items of services offered by the particular establishment shall be prominently posted in a location available to all prospective patrons.

(5) False, misleading or deceptive advertising. No establishment granted a license under the provisions of this chapter shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known, or through the exercise of reasonable care should be known, to be false, deceptive or misleading in order to induce any person to purchase or utilize the services of the particular establishment.

(6) Permitting persons under 18 on premises. No person shall permit any person under the age of 18 years to come on or remain in any premises licensed under this chapter as an employee or patron unless such person is on lawful business. However, any person under the age of 18 years

may enter a massage shop as a patron if accompanied by a parent or legal guardian.

(7) Hours. No establishment licensed under this chapter shall remain open for business between the hours of 12:00 a.m. and 7:00 a.m., and all such business shall cease during such hours.

(8) Employment of persons without permit. No person licensed under this chapter shall employ any person unless such person has obtained and has in effect an employee permit issued pursuant to this chapter.

(9) Alcoholic beverages. No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverages, on the premises of any business licensed under this chapter. Nor shall any person be allowed to consume alcoholic or cereal malt beverages on or about the premises.

(10) Controlled substances. No person licensed under the provisions of this chapter, or his agent, servant or employee, shall possess, store, sell or offer for sale, give away or otherwise dispose of, upon or about the licensed premises, or permit any person on or about the licensed premises or possess, store, sell or offer for sale, give away or otherwise dispose of, any controlled substance.

(11) Attire of employees; dressing rooms. All employees of a licensed massage shop shall be clean and wear clean outer garments, covering the sexual and genital areas, such use being restricted to the establishment. In massage shops, rooms used for dressing shall be separate for each sex. Doors to such dressing rooms shall be in conformance with the city's building and fire codes and shall be self-closing.

(12) Separation of patrons during massage. In a massage shop, only one patron shall be permitted to be treated in any single area therein used for massage.

(13) Operator to be on premises during business hours of massage shop. In a massage shop, the operator or a permitted massage therapist, masseur or masseuse shall be present on the premises at all times during business hours and shall be responsible for the operation of the establishment.

(14) Responsibility for conduct of business. All operators licensed under the provisions of this chapter shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or any of his employees on such premises which constitutes a violation of any of the provisions of this chapter. Any act or conduct violative of the city, state or federal laws committed by the licensee or his employees on the licensed premises affecting the suitability of such licensee or employee to hold a license or permit may be grounds for suspension or revocation, after notice and hearing, of the license or permit.

5-702.

COMPLIANCE WITH APPLICABLE REGULATIONS. All establishments provided for under this chapter shall meet all the requirements of the city's building, zoning, fire and health codes and regulations; provided, however, no license to operate a massage shop shall be issued for any premises which are primarily occupied as a residential dwelling unit.

5-703. INSPECTIONS. The City shall be authorized to make inspections at reasonable times and hours of any establishment licensed under the provisions of this chapter for purposes of determining whether the provisions of this chapter or of any other city ordinance or state law they are authorized to enforce is being fully complied with. It shall be unlawful for any licensee or employee of such licensee to refuse such entry into his licensed premises or any part thereof, and such refusal shall make such person's license or permit immediately revocable.

5-704. UNLAWFUL ACTS. (a) It shall be a Class B violation for any person in a massage shop to treat a person of the opposite sex except at the written request of such person (which shall be maintained for five years), or unless upon the signed order of a licensed physician, osteopath, chiropractor or physical therapist licensed by the state, which order shall be dated and specify the number of treatments to be given. The requirements of this subsection shall not apply to treatments given in the residence of a patient, in the office of a licensed physician, osteopath, chiropractor, physical therapist, or occupational therapist licensed by the state, or in a regularly established hospital or sanitarium.

(b) It shall be a Class B violation for any person in any establishment licensed under the provisions of this chapter to place his or her hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of himself or any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks (except in massage), anus or perineum of any person, or the vulva or breasts of a female.

(c) It shall be a Class B violation in any massage shop for any person to expose his or her sexual or genital parts, or any portion thereof, to any other person.

(d) It shall be a Class B violation for any person, while in the presence of another person, in any massage shop, to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

(e) It shall be a Class B violation for any person owning, operating or managing any establishment mentioned in subsection (a), (b), (c) or (d) of this section to cause, allow or permit, in or about such establishment, any agent, employee or other person under his control or supervision to perform the acts prohibited in such subsections.

(f) It shall be a Class B violation for any person rendering services governed under the provisions of this chapter to administer any such services on an outcall basis. Such person shall administer his services within an establishment licensed to carry on business under this chapter. Any violation of this subsection shall be deemed grounds for revocation, after hearing, of a license or permit granted under this chapter; provided, however, that such restriction shall not apply to a massage licensee or permittee who performs outcall massage upon a patron or client who, because of reasons of physical defects or incapacities or due to illness, is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the patron or client, and the name of the licensee or permittee

administering such treatment and the type of treatment administered, as well as the physical defect, incapacity or illness of such patron or client, shall be kept by the licensee or his designate. Such records shall be open to inspection by the City. The information furnished or secured as the result of any such inspection shall be confidential.

(g) It shall be a Class B violation for any massage services to be performed or carried on in any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. All toilets in any licensed establishment, and cubicles in a massage shop used solely for the application of liquid and vapor baths, shall have no such opening in the door or curtain, but shall be clearly marked as to the purpose on the exterior door or curtain of such cubicle, room or booth. Nothing in this subsection shall be construed to eliminate the other requirements of any city ordinance concerning the maintenance of premises, or to preclude the authorized inspection as authorized in this chapter.

(h) It shall be a Class B violation for any person granted a license pursuant to this chapter to operate his establishment under a name not specified in his license, or conduct such business under any designation or location not specified on his license.

5-705. OPERATOR'S LICENSE REQUIRED; RENEWAL. No person shall operate a massage shop without first having obtained a license therefor from the city clerk, pursuant to the provisions of this chapter. The fee as established annually in the budget resolution, is shown in Exhibit C-511. Each license shall be renewable on January 1 of each year thereafter. (2013, Res. 1973)

5-706. OPERATOR'S LICENSE; APPLICATION. (a) Every applicant for a license to operate a massage shop shall file an application made under oath with the City Clerk. The application, once accepted, shall be duly investigated. The applicant shall furnish the necessary clearances and certifications that the proposed premises of the applicant meet the standards of the respective codes. Each application shall contain at a minimum the following information:

(1) The type of license applied for.

(2) The location, mailing address and all telephone numbers where the business is to be located.

(3) The name and address of each applicant. (Hereinafter all provisions which refer to an applicant include an applicant which may be a corporation or partnership.)

a. If the applicant is a corporation, the names and addresses of the officers of the corporation and each stockholder owning ten percent of the corporation itself, if different from the address of the place of business.

b. If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the place of business.

c. If the application is on behalf of a corporation, the date of incorporation, the state incorporated in, and a copy of the corporation certificate and incorporation papers.

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- d. A copy of the employer state identification number.
- e. Kansas State sales tax number.
- (4) The two previous addresses immediately prior to the present address of the applicant.
- (5) Proof that the licensee is at least 18 years old.
- (6) The applicant's height, weight, color of eyes and hair, and sex.
- (7) A copy of identification such as a driver's license and social security card.
- (8) Portrait photographs of the applicant, 5" x 7" size. If the applicant is a corporation, portrait photographs of all officers of the corporation, 5" x 7" size shall be submitted. If the applicant is a partnership, front-face portrait photographs 5" x 7" size of each partner shall be submitted.
- (9) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
- (10) The license history of the applicant; whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (11) All criminal convictions other than minor traffic violations, including the dates of conviction, nature of crimes, court and location of such convictions.
- (12) The name and address of each employee who is or will be employed in the proposed establishment.
- (13) In the case of a massage shop application, if the applicant intends to engage in the massage services offered at the proposed establishment, a diploma or certificate of graduation from a recognized school or institution where the method, profession and work of massage is taught, or proof that he has previously been licensed by the city as a massage therapist; provided, however, that if the applicant will not engage in the practice of massage no such certification need be shown.
- (14) The name and address of the same or any other type business licensed under this chapter owned or operated by the applicant or any other person required by the provisions of this chapter to be named in the application.
- (15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (16) Authorization for the city and 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 and permit applied for.
- (b) All applicants for licenses issued under the provisions of this chapter or any purchaser of any establishment licensed under this chapter or heretofore, shall, in addition to the other information required by this section, evidence the financing of such business, regardless of source, whether, but not necessarily limited to, from the applicant's personal assets, or from a loan, gift, stock purchase or paid-in capital. The City Clerk may require, and the applicant shall furnish, any supplemental or additional information regarding such funding.

5-707. OPERATOR'S LICENSE; ISSUANCE OR DENIAL. The City Manager or his designee shall act to approve or deny any application from an operator's license under this chapter within a reasonable period of time, and in no case act to approve or deny such application later than 90 days from the date such application was accepted. Such license shall be issued, if all requirements have been met, unless the City Manager or his designee finds that:

(1) The license and permit fee has not been tendered by the City. In no case shall a license be issued if a check or bank draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not conform with all applicable laws, including but not limited to the city's building, zoning, health and fire prevention codes and regulations.

(3) The applicant, if an individual; or any of the stockholders holding over ten percent of the stock of a corporation, or any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the business, have been convicted of the following offenses:

a. Any offense which is considered a felony under the laws of the state.

b. Any offense, regardless of whether the offense is a misdemeanor under a state statute or an ordinance violation, where such offense involves sexual misconduct, or the use of force and violence upon the person of another, or involves narcotics, dangerous drugs or the use of a dangerous weapon.

(4) The applicant has made any false, misleading or fraudulent statement of a material fact in his application or in any other document required by the City in conjunction therewith.

(5) The applicant has had an operator's license or permit for the particular operation under the provisions of this chapter or other similar license or permit denied, revoked or suspended by the City or by any other state or local agency within five years prior to the date of application; provided, however, the city clerk may examine the facts and circumstances of such denial, suspension or revocation to judge whether or not such person's application should be denied.

(6) The applicant, if an individual; or any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or the person principally in charge of the operation of the business, is under the age of 18 years.

5-708. MASSAGE SHOPS; FACILITIES AND EQUIPMENT. Massage shops, in addition to meeting the requirements of section 5-702, shall also be in conformance with the following minimum requirements:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproofing materials, shall be ADA accessible, and shall be installed in accordance with the City's

building code. Plumbing fixtures shall be installed in accordance with the City's plumbing code.

a. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City building inspectors.

b. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to a sewer, except that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

c. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massage. Such non-disposable instruments and materials shall be disinfected after use on each patron.

(3) Closed cabinets shall be provided for the storage of clean linen and towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers and cabinets shall be kept separately from the clean storage areas.

(4) Toilet facilities shall be provided in convenient locations in accordance with the City's building and health codes and regulations. Toilets shall be designated as to the sex accommodated therein.

(5) Lavatories and washbasins provided with both hot and cold running water shall be installed either in the toilet room or a vestibule. Lavatories and washbasins shall be provided with soap and a dispenser and with sanitary towels.

(6) All electrical equipment shall be installed in compliance with the City's electrical code.

5-709.

MASSAGE SHOPS; EXEMPTIONS. The provisions of this chapter and of this article required of massage shops shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(1) Physicians, surgeons, osteopaths, chiropractors, physical therapists, or occupational therapists who are licensed by the state or directly supervised by them.

(2) Nurses who are licensed by the laws of this state.

(3) Barbers and beauticians who are licensed by this state, except that this exemption shall apply solely to the massaging the neck, face, scalp and hair of the patron or client for cosmetic or beautifying purposes.

(4) Athletic trainers for amateur, semi-professional or professional athletic organizations.

ARTICLE 8. TATTOO, BODY PIERCING AND BRANDING ESTABLISHMENTS

- 5-801. BRANDING. It shall be a Class A violation for any person to engage in the business of branding in the corporate limits of the city.
- 5-802. TATTOOING AND BODY PIERCING. It shall be a Class A violation for any person to engage in the business of tattooing or body piercing (except for ear lobes) in the corporate limits of the city unless licensed and in full compliance with K.S.A. 65-1940 et. seq.
- 5-803. SAME; FEES. The fees for the license required by this article shall be established annually in the budget resolution and is shown in Exhibit C-512. Such permit shall be renewable on the anniversary date each succeeding year.
- 5-804. SAME; APPLICATION. (a) Every applicant for a license to operate a tattoo or body piercing establishment shall file an application made under oath with the City Clerk. The application, once accepted, shall be duly investigated. The applicant shall furnish the necessary clearances and certifications that the proposed premises of the applicant meet the standards of the respective codes. Each application shall contain at a minimum the following information:
- (1) The type of license applied for.
 - (2) The location, mailing address and all telephone numbers where the business is to be located.
 - (3) The name and address of each applicant. (Hereinafter all provisions which refer to an applicant include an applicant which may be a corporation or partnership.)
 - a. If the applicant is a corporation, the names and addresses of the officers of the corporation and each stockholder owning ten percent of the corporation itself, if different from the address of the place of business.
 - b. If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the place of business.
 - c. If the application is on behalf of a corporation, the date of incorporation, the state incorporated in, and a copy of the corporation certificate and incorporation papers.
 - (4) The two previous addresses immediately prior to the present address of the applicant.
 - (5) Proof that the licensee is at least 18 years old.
 - (6) The applicant's height, weight, color of eyes and hair, and sex.
 - (7) A copy of identification such as a driver's license and social security card.
 - (8) Portrait photographs of the applicant, 5" x 7" size. If the applicant is a corporation, portrait photographs of all officers of the corporation, 5" x 7" size shall be submitted. If the applicant is a partnership, front-face portrait photographs 5" x 7" size of each partner shall be submitted.
 - (9) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
 - (10) The license history of the applicant; whether such person, in previously operating in this or another city or state, has had a business

license revoked or suspended, and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(11) All criminal convictions other than minor traffic violations, including the dates of conviction, nature of crimes, court and location of such convictions.

(12) The name and address of each employee who is or will be employed in the proposed establishment.

(13) In the case of a tattoo or body piercing application, if the applicant intends to engage in the tattoo or body piercing services offered at the proposed establishment, a diploma or certificate of graduation from a recognized school or institution where the method, profession and work of tattoo and body piercing is taught, or proof that he has previously been licensed by the city as a tattoo or body piercing professional; provided, however, that if the applicant will not engage in the practice of tattooing or body piercing no such certification need be shown.

(14) The name and address of the same or any other type business licensed under this chapter owned or operated by the applicant or any other person required by the provisions of this chapter to be named in the application.

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(16) Authorization for the city and 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 and permit applied for.

(17) A copy of the employer's tax identification number.

(18) A copy of the Kansas sales tax number.

(b) All applicants for licenses issued under the provisions of this chapter or any purchaser of any establishment licensed under this chapter or heretofore, shall, in addition to the other information required by this section, evidence the financing of such business, regardless of source, whether, but not necessarily limited to, from the applicant's personal assets, or from a loan, gift, stock purchase or paid-in capital. The City Clerk may require, and the applicant shall furnish, any supplemental or additional information regarding such funding.

ARTICLE 9. ADULT ENTERTAINMENT BUSINESSES

5-901.

FINDINGS. The City Commission finds the following:

(1) Certain conduct occurring on premises offering adult entertainment is detrimental to the public health, safety and general welfare of the citizens of the city, and, therefore, such conduct must be regulated as provided in this article.

(2) Regulation of the adult entertainment industry is also necessary because in the absence of such registration significant criminal activity has historically and regularly occurred.

(3) It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, and to ensure that such entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

(4) It is necessary to have a licensed manager on the premises of establishments offering certain kinds of adult entertainment at such times as such establishments are offering adult entertainment so that there will at all necessary times be an individual responsible for the overall operation of the establishment, including the actions of customers, entertainers and other employees.

(5) The license and permit fees required in this article are fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.

(6) Businesses providing adult entertainment are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity which is currently not subject to effective regulation and which constitutes an immediate threat to the public peace, health and safety.

(7) Regulation of the adult entertainment industry is necessary to deter prostitution or high-risk sexual conduct that may be associated with adult entertainment facilities and to limit the health hazards of syphilis, gonorrhea, herpes, hepatitis-B and HIV/AIDS that may result.

5-902. APPLICABILITY OF OTHER REGULATIONS; CONFLICTING PROVISIONS.

(a) The licenses provided for in this article are subject to the general provisions of this chapter and the City Zoning Ordinance. In the event of a conflict between the provisions of this article and other parts of this chapter or Code or the City Zoning Ordinance, the provisions of this article shall control.

(b) The licenses and fees required by this article shall be in addition to any other licenses and fees required by this Code.

5-903. BUSINESS LICENSE REQUIRED. (a) It shall be unlawful for any person to operate or maintain an adult entertainment business in the city unless the owner, operator or lessee thereof has obtained from the City Clerk a license to do so, to be designated as an "adult entertainment business license," or to operate such business after such license has been revoked or while such license is suspended.

(b) It shall be unlawful for any entertainer, employee or manager to perform any service or entertainment directly related to the operation of an unlicensed adult entertainment business.

(c) It shall be prima facie evidence that any adult entertainment business that fails to have posted, in the manner required by this article, an adult entertainment business license, has not obtained such license. It shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which a license is not posted in the manner required by this article had knowledge that such business was not licensed.

5-904. LICENSE AND PERMIT CLASSIFICATION AND FEES. (a)The license or permit year for all fees required under this article shall be from each January 1 through December 31. The application for a license or permit shall be accompanied by payment in full of the fee stated in this section, by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid. Such fee shall not be refunded under any circumstances.

(b) The classification of licenses and permits for an adult entertainment business, and the fees for each shall be as established annually in the budget resolution are shown in Exhibit C-513.

5-905. APPLICATION FOR BUSINESS LICENSE OR PERMIT. All applications for an adult entertainment business license shall be submitted in the name of the person proposing to conduct or operate such adult entertainment on the premises and shall be signed by such person and notarized. All applications shall be submitted on a form supplied by the City Clerk, and shall require at a minimum the following:

(1) The name, residence, address, home telephone number, date and place of birth, and social security number of the applicant.

(2) The business name, address and telephone number of the establishment.

(3) The names, residences, addresses, residence telephone numbers, social security numbers and dates of births of all partners, if the applicant is a partnership; or, if the applicant is a corporation, of all corporate officers and directors.

(4) If the applicant is a corporation, certified by the State articles of incorporation and by-laws, and a list of all stockholders.

(5) 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.

(6) A description of the adult entertainment or similar business history of the applicant, or of all partners, or of all corporate officers and directors; and whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation.

(7) A description of the business, occupation or employment of the applicant, or of all partners, or of all corporate offices and directors, for the three years immediately preceding the date of application.

(8) 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, or released from confinement for conviction of, any felony or misdemeanor or been institutionalized or hospitalized for a mental disease or defect in the last 10 years.

(9) The applicant, or all partners or all corporate officers and directors must submit a current photograph.(10)If the applicant is a

corporation, a current certificate of good standing issued by the secretary of state.

(10) Insurance and a certificate as set forth in Section 5-119.

Failure to provide information required by this subsection and the application provided by the City Clerk shall constitute an incomplete application and the application shall not be processed.

5-906.

CRITERIA FOR ISSUANCE OF BUSINESS LICENSE OR PERMIT.

After an investigation, the City Manager or his designee shall issue the applicable license authorized by this article if the City Manager or his designee finds that:

(1) The business for which a license is required in this article will be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city, as well as the requirements of this chapter.

(2) The applicant, or any of his, her or its employees, agents, partners, directors, officers, stockholders or managers, has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the City Manager or his designee, as part of the original license application or application for renewal thereof.

(3) The applicant, and all employees, agents, partners, directors, officers or managers of the applicant, have attained the age of 18 years.

(4) The applicant, or any partner, or any corporate officer or director, has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within ten years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within ten years immediately preceding the application, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within five years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution, or sale or use of controlled substances or illegal drugs or narcotics.

(5) The applicant, or any partner, or any corporate officer or director, has not had a license or permit issued under the provisions of this article, or similar provisions in another location revoked within five years immediately preceding the application.

5-907.

APPROVAL OR DENIAL OF BUSINESS LICENSE OR PERMIT.

It shall be the duty of the applicant to request, in writing, confirmation of zoning, building codes, fire, health and property maintenance ordinance compliance from the appropriate city departments, and the application shall not be considered complete until such requests are made. The response to such requests, confirming compliance or otherwise, shall be made in writing to the City Clerk no more than 30 days after receipt of the request. It shall be the duty of the City Manager or his designee to request criminal records and to investigate other information required by the license application. If a license

application is disapproved, the City Clerk shall notify the applicant in person, or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.

5-908. COMPLIANCE WITH OTHER REGULATIONS. It shall be the duty of an adult entertainment business licensee to comply with the building codes, zoning, fire, health and property maintenance ordinances of the city and with regulations of such departments of the city. Knowing failure to continue compliance with such ordinances or regulations may be a basis for suspension, revocation or nonrenewal of the license.

5-909. STANDARDS OF CONDUCT AND OPERATION FOR ADULT ARCADES.

(a) The following standards of conduct must be adhered to by employees of any adult entertainer arcade while on the adult entertainment facility premises:

(1) No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area.

(2) No employee or entertainer shall perform any specified sexual activities.

(3) No employee or entertainer who is either not separated from any and all customers as provided in subsection (a)(1) of this section, or in an area of the premises not open to customers, shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subsection (1) of this section.

(4) No employee or entertainer shall touch any specified anatomical area of another person, or permit another person to touch any specified anatomical area of such employee or entertainer. No employee or entertainer shall fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

(5) No entertainer of any adult arcade shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.

(6) No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this article.

(7) No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer as described in subsection (1) of this section.

(b) Neither any entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

5-910. STANDARDS OF CONDUCT AND OPERATION FOR ADULT ARCADES.

(a) The following standards of conduct must be adhered to by employees of any adult cabaret while on the adult entertainment facility premises:

(1) No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, unless separated by at least six feet from the nearest customer and upon a stage at least 24 inches above the immediate floor level.

(2) No employee or entertainer shall perform:

a. Any specified sexual activities; or

b. The displaying of any specified anatomical area;

except as provided for in subsection (a)(1) of this section;

(3) No employee or entertainer who is not separated from any and all customers as provided in subsection (a)(1) of this section shall be unclothed or in less than opaque and complete attire, costumer or clothing as described in subsection (a)(1) of this section, except in an area of the premises not open to customers.

(4) No employee or entertainer shall touch any specified anatomical area of another person, or permit another person to touch any specified anatomical area of such employee or entertainer. No employee or entertainer shall fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

(5) No employee or entertainer shall wear or use any device or covering exposed to view which simulates any specified anatomical area.

(6) No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

(7) No entertainer of any adult cabaret shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.

(8) No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this article.

(b) Neither any entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

5-911. STANDARDS OF CONDUCT AND OPERATIONS GENERALLY. It shall be unlawful for:

(1) Any person under the age of 18 years to be in or upon any premises for which an adult entertainment business license is required.

Liberal Code

(2) Any customer, while upon any premises for which an adult entertainment business license is required, to:

a. Touch any specified anatomical area of any employee, entertainer or any other person, or to fondle or caress any specified anatomical area, whether such area is clothed, unclothed, covered or exposed, of any employee, entertainer or any other person;

b. Be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except in a restroom for customers upon the premises; or

c. Perform any specified sexual activities.

(3) Any owner, operator, manager or other person in charge of premises for which an adult entertainment business license is required to:

a. Permit or allow any person under the age of 18 years to be in or upon such premises;

b. Allow or permit alcoholic beverages to be brought onto or consumed on the premises;

c. Allow or permit the sale, distribution or delivery of any controlled substance or illegal drug or narcotic on the premises; or

d. Allow or permit any act of prostitution or patronizing prostitution, on the premises.

5-912. DISPLAY OF LICENSE OR PERMIT. (a) Every person, corporation, partnership or association licensed under this article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.

(b) Every adult entertainer or adult entertainer manager shall post his or her permit in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by city authorities responsible for enforcement of this article.

5-913 RESPONSIBILITIES OF MANAGER. (a) An adult entertainment manager shall be on duty at an adult entertainment business at all times adult entertainment is being provided or that customers are on the premises. The name of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's permit, and that such permit is posted in the manner required by this article.

5-914. HOURS OF OPERATION. It shall be unlawful for any adult cabaret to be conducted, operated or otherwise open to the public, customers or members between the hours of 2:01 a.m. and 9:00 a.m.

5-915. INSPECTIONS. The City is hereby empowered to appoint inspectors of adult entertainment business, and all such businesses shall be open to the inspection of the inspectors appointed by him or to any members of the police

department at any time during the hours allowed for business and at other reasonable times.

5-916. SUSPENSION, REVOCATION OR NONRENEWAL OF LICENSE. When the City Manager or his designee has information that:

(1) The owner or operator of an adult entertainment business has violated, or allowed or permitted the violation of, any of the provisions of this article;

(2) There have been recurrent violations of provisions of this article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed;

(3) The adult entertainment business license was obtained through false statements in the application for such license, or renewal thereof;

(4) The adult entertainment business license failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

(5) The owner or operator, or any partner, or any corporate officer or director, has become disqualified from having a license by a conviction as provided in section 5-908;

then the City Manager or his designee shall hold a hearing in the manner provided in this article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee, and shall be served upon the licensee in person or by registered or certified mail to the licensee's last known address. If the City Manager or his designee is not able to serve notice upon the licensee in person, and any notice sent by mail is returned by the postal service, the City Manager or his designee shall cause such notice to be posted at the principal entrance of the adult entertainment business or facility, and such posting shall be a valid means of service. If the City Manager or his designee finds and concludes from the evidence that the licensee has violated any of the provisions listed in this section, the City Manager or his designee may suspend, for a period not to exceed 90 days, or revoke the license issued under this article, or, in the case of a renewal application, refuse to renew such application.

5-917. HEARING PROCEDURE. (a) In any instance in this article wherein a hearing is required, the City Manager or his designee shall, after no less than three days' written notice to the applicant, licensee or permittee, hold such hearing to ascertain all facts in the matter.

(b) An applicant, licensee or permittee shall have full right to be represented by counsel but not during the hearing, to produce witnesses and other evidence, and to cross examine all witnesses who appear against him. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be tape recorded. The City Manager or his designee may receive evidence relevant to the issues from the applicant or licensee or from other sources.

(c) The City Manager or his designee shall issue an order wherein he may dismiss the complaint, or suspend or revoke a license or permit

previously issued, or renew or refuse to renew a license or permit previously issued. The City Manager's or his designee's order shall be served upon the applicant, licensee or permittee in person or by registered or certified mail to the applicant's, licensee's or permittee's last known address. If the City Manager or his designee is not able to serve such order upon the licensee, or applicant for renewal license, in the manner stated in this subsection, such order may be served in the manner provided in section 5-916.

5-918. RENEWAL OF LICENSE OR PERMIT. (a) A license or permit issued under this article may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses and permits shall expire on December 31 of each calendar year, and renewal applications for such licenses or permits shall be submitted between November 16 and November 30.

(b) Upon timely applications therefor, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided by sections 5-906 and 5-907, unless the City Manager or his designee disapproves such renewal application in the manner provided by section 5-916.

(c) Upon the filing of a timely application for renewal of a license or permit issued under the provisions of this article, the City Manager or his designee shall issue a temporary license or permit to the applicant, which temporary license or permit shall remain in effect until the director has approved or disapproved the application.

(d) Any applicant issued a temporary license or permit under the provisions of this section shall comply, or continue to comply, with the provisions of this article. Additionally, an applicant issued a temporary license or permit under the provisions of this section shall be subject to the penalty provisions in this article.

(e) If the application for renewal of a license or permit is not made during the time provided in subsection (a) of this section, the expiration of such license or permit shall not be affected, and a new application shall be required.

5-919. PENALTY FOR VIOLATION OF ARTICLE. 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 \$250 and not more than \$2,000.00, or be punished by jail up to 90 days, or be punished by both such fine and jail. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this article shall constitute a separate or distinct offense.

ARTICLE 10. DANCE HALL

5-1001. EXCEPTIONS. This article shall not apply to a dance conducted at and sponsored by a public or private elementary school, secondary school, community college, university, Air Museum, non-profit, church or fraternal organizations, City of Liberal or Seward County.

- 5-1002. LICENSE REQUIRED. (a) No person shall keep or operate any public dancehall, restaurant, cabaret, public dance studio, room or place within the limits of the City in which dancing by the public shall be permitted upon payment of an admission fee or other consideration, without first securing from the City Clerk a license to operate such dancehall, restaurant, cabaret, public dance studio, room or place for public dancing and payment of the City fee as established annually in the budget resolution is shown in Exhibit C-514.
- (b) Licenses to be issued shall be classified by duration of operation as follows:
- (1) One day (day or night).
 - (2) One month (day or night).
 - (3) One year (day or night).
- 5-1003. PERMIT REQUIRED. The City Clerk shall not issue a license for any public dance place described in this article unless the applicant for such license presents to him a permit to conduct a public dance at the location applied for, issued to such application by the City Clerk.
- 5-1004. APPLICATION FOR PERMIT. The applicant for a permit required by this article must furnish the City Clerk, in writing, on forms to be provided by the director for that purpose, at least the following.
- (1) The trade name and location of any such dancehall, restaurant, cabaret, public dance studio, room or place; and the bounds of the premises to be covered by such license.
 - (2) The name and address of an individual applicant and the trade name under which business is to be conducted; if the applicant is a corporation, its name, date and place of incorporation, address of its principal place of business, and the names of its principal officers, together with their respective residence addresses; and, if the applicant is a partnership or association, the names of the partners or other persons comprising the association and the business and residence address of each partner or person, and the trade name under which business is to be conducted.
 - (3) The classification of license applied for, including the days and hours of the week at which such dancing shall be permitted or conducted and the age group of the public to be invited.
 - (4) Proof that the individual applicant, each of the individual members if a partnership, or each of the principal officers if a corporation, is at least 18 years of age.
- 5-1005. COMPLIANCE WITH OTHER REGULATIONS. No permit required by this article shall be issued until the applicant has shown to the satisfaction of the City Clerk that the premises upon which dancing by the public is to be licensed complies with the building codes, zoning, health and property maintenance ordinances of the city and with regulations of such departments of the city.

- 5-1006. CHARACTER OF LICENSEE AND EMPLOYEES. (a) No person, partnership or corporation shall be or remain qualified for a license under this article if such person, any member of such partnership, any officer or director of such corporation, or any agent, servant or employee of such applicant or licensee shall not be a person of good moral character. The City Manager or his designee shall conduct an investigation for the purpose of making this evaluation.
- (b) No permit shall be issued to any applicant, nor shall any license be retained by any licensee, if the individual, any member of the partnership, any officer or director of a corporation, or any agent, servant or employee of such applicant or licensee shall have been convicted of any felony, or any misdemeanor during the five years immediately prior to the date of application, or during the duration of the license.
- 5-1007. DENIAL OF PERMIT. (a) Authority of City Manager or his designee. The City Manager or his designee may refuse to grant a permit under this article for failure to comply with section 5-1004, 5-1005 or 5-1006, or upon finding from previous experience or upon investigation of the proposed location that the operation of such a business or establishment will not be in the best interest of the locality involved. Failure of the City Manager or his designee to grant a permit within 45 days of the receipt of the completed application shall be deemed denial of the application.
- (b) Criteria. In determining whether or not the proposed business is in the best interest of the locality involved, the City Manager or his designee shall consider:
- (1) Whether the proposed premises are within 500 feet of residentially zoned property and whether operation of the business or establishment will create a nuisance to that property;
- (2) Whether the operation of the business or establishment will create a noise disturbance;
- (3) Whether the operation of the business or establishment will cause traffic congestion or parking problems, or cause or contribute to crime or disturbances in the locality.
- 5-1008. VIOLATIONS BY LICENSEE OR EMPLOYEES. It shall be unlawful for any licensee mentioned in this article, or his agent, servant or employee, to:
- (1) Permit the licensed premises to remain open for business between the hours of 2:01 a.m. and 9:00 a.m.
- (2) Permit any disturbances, disorderliness, lewdness, immoral activities or brawls on the premises.
- (3) Allow or permit alcoholic beverages to be brought onto or consumed on the premises.
- 5-1009. RESPONSIBILITIES OF LICENSEE. The licensee under this article is at all times responsible for the conduct of the business and for any act or conduct of any employee on the premises which is in violation of this article. It shall be the duty and responsibility of the licensee and the person in charge of the licensed premises to supervise the operation and conduct of the

business in a diligent manner and to make reasonably certain the provisions of this article are not violated.

5-1010. INSPECTIONS. The City Manager or his designee is hereby empowered to appoint inspectors of public dance halls and places licensed for dancing by the public, and all such places licensed by the City shall be open to inspections of the inspectors or to any member of the police, fire or code enforcement departments at any time during the hours allowed for business and at other reasonable times.

5-1011. SUSPENSION OR REVOCATION OF PERMIT. Whenever the City Manager or his designee has information that:

(1) A license under this article or any employee, agent or servant has violated any of the provisions of this article;

(2) The license or permit held by such person was obtained through materially false statements in the application for such license or permit, or renewal thereof;

(3) A licensee failed to make a complete disclosure of all pertinent information in the application for such license or permit, or renewal thereof; or

(4) Any of the conditions listed in section 5-1007 has developed subsequent to the issuance of the permit;

then the City Manager or his designee shall hold a hearing in the manner provided in this article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last known address. If the City Manager or his designee finds and concludes from the evidence that the licensee or any employee, agent or servant has violated any of the provisions listed in this section, he may suspend, for a period not to exceed 90 days, or revoke the permit issued under this article.

5-1012. RENEWAL OF PERMIT. (a) Permits issued under this article may be renewed, depending on the duration of operation, by making application to the City Clerk on forms provided for that purpose. One-year licenses shall expire on December 31 of each calendar year, and renewal applications for such licenses shall be submitted before such expiration date.

(b) If the City Manager or his designee has information that the applicant has not satisfied or does not continue to satisfy all the other requirements of his chapter, the City Manager or his designee, in his discretion, may refuse to renew such permit. In the event of such refusal, the applicant shall be granted a hearing before the City Manager or his designee, to be held in the manner provided in this article. Notice of such hearing shall be held in writing, and shall set forth the reason for the hearing or the complaint against the licensee, and shall be served upon the licensee in person or by registered or certified mail to the licensee's last known address.

5-1013. PENALTY FOR VIOLATION OF ARTICLE. It shall be unlawful for any person to keep or operate a public dancehall without having secured a license, or to violate any of the other provisions of this article. Upon conviction

thereof, such person shall be fined not less than \$100.00 and not more than \$1,000.00. Each and every day that such a public dance hall or place where dancing by the public is permitted or conducted without a license shall constitute a separate offense.

ARTICLE 11. CARNIVALS, CIRCUSES, RODEOS AND STREET FAIRS

- 5-1101. PERMIT REQUIRED. No person shall carry on, operate, conduct or participate in the operation of any carnival, circus, street fair or rodeo, unless such person shall first have secured a permit for such operation from the City Clerk, for the particular proposed location thereof.
- 5-1102. PREREQUISITES TO ISSUANCE OF PERMIT-STATEMENT FROM CODE ENFORCEMENT OFFICER. The City Clerk shall not issue a permit for a carnival, circus, street fair or rodeo until he has first obtained a certified statement that, upon investigation by the City Code Enforcement Officer, the operators thereof have the proper equipment and facilities for establishing and maintaining the sanitary condition required by the applicable regulations of the health department applying to public rooms and buildings, carnivals, street fairs or rodeos or other public gatherings, and with all of the city ordinances that prescribe health and sanitation requirements for public rooms and buildings, carnivals, street fairs or rodeos, and with all food and drinking sanitation requirements.
- 5-1103. SAME; COMPLIANCE WITH ZONING REGULATIONS. The City Clerk shall not issue a permit for carrying on or operating a carnival, circus, street fair or rodeo until he shall have first ascertained from the board of zoning administrator of the city that the particular proposed location does not conflict with the zoning ordinances of the city.
- 5-1104. SAME; INVESTIGATION OF EQUIPMENT; STATEMENT REGARDING HOURS OF OPERATION. The City Clerk, before issuing a permit for a carnival, circus, street fair or rodeo, shall cause an investigation to be made of the size and equipment of the carnival, circus, street fair or rodeo and shall require a written agreement from the carnival, circus, street fair or rodeo as to the time of during which it intends to operate.
- 5-1105. SAME; HOURS OF OPERATION AND SPECIFIC DATES OF OPERATION. Any person desiring to carry on, operate or conduct the operation of any carnival, circus, street fair or rodeo, shall discontinue operation at 10:00 p.m. Sunday through Thursday and at 11:00 p.m. on Friday and Saturday and shall not operate the event during the thirty (30) day period prior to the annual Seward County Fair, normally held in late-July and early-August.

- 5-1106. DENIAL OF PERMIT BECAUSE OF PREVIOUS VIOLATIONS. The City Manager or his designee may refuse to grant a permit for the conduct or operation of a carnival, circus, street fair or rodeo to any person who has, in his previous operation of any carnival, circus, street fair or rodeo, in any other city or this city, violated the ordinances and requirements of such other city or this city to have revoked any permit or permission to operate such carnival, circus, street fair or rodeo.
- 5-1107. COMPLIANCE WITH APPLICABLE REGULATIONS. Every person obtaining a permit to operate, carry on or conduct a carnival, circus, street fair or rodeo in the city shall agree as a condition thereto to fully comply with every ordinance of the city, and if such person or anyone employed thereby or operating with permission thereof shall violate the provision of any ordinance of the city, the City Manager or his designee is hereby authorized to revoke and cancel such permit upon his personal determination that there has been such violation of any of the provisions thereof.
- 5-1108. CANCELLATION OR RESCISSION OF PERMIT. The City Manager or his designee, after the City Clerk has issued a permit for the operation or conduct of any carnival, circus, street fair or rodeo, shall have the authority to cancel and rescind such permit at any time after its issuance that he finds that the operation of the carnival, circus, street fair or rodeo is in conflict with any of the requirements set out in this division or is being operated contrary to the expressly stated plans of the carnival, circus, street fair or rodeo or is so conducted or operated as to endanger substantially the public peace, health, safety and welfare of the neighborhood.
- 5-1109. FEES FOR INSPECTIONS. A fee for the license under this article shall be established annually in the budget resolution and is shown in Exhibit C-515. The fee will be charged to each carnival, circus, street fair or rodeo, or to the persons operating such carnival, circus, street fair or rodeo, for the purpose of defraying the expense of daily inspection of such carnival, circus, street fair or rodeo to see that it conforms with the requirements of this division during each of the days it operates in the city. Such fee shall be paid to the City Clerk, who shall have charge of seeing that the inspection is made.
- 5-1110. LIABILITY INSURANCE FOR CARNIVALS AND CIRCUSES. As a condition precedent to a license being issued or renewed for operation of a carnivals and circuses as defined in section 5-101, the applicant shall furnish to the city a certificate of insurance, in a company approved by the City Clerk, meeting the following requirements:
- (1) The policy shall provide for liability insurance with a combined single-limit policy of \$1,000,000.00.
 - (2) The city shall be added as an additional named insured to such policy by separate endorsement.
 - (3) The policy shall contain a separate endorsement requiring the insurance company to notify the city in writing of any change in or cancellation of the policy at least ten days prior thereto.

(4) Before the license is issued or renewed, the permittee shall deposit with the city a certificate of insurance evidencing that the endorsements required by subsections (2) and (3) of this section have been issued.

ARTICLE 12. PAWNBROKERS AND PRECIOUS METAL DEALERS

- 5-1201. STATE LAW INCORPORATED. K.S.A. 16-706:720 regulating pawnbrokers and precious metal dealers is hereby incorporated by reference as though the same were fully set forth. (K.S.A. 12-3010)
- 5-1202. LICENSE. It shall be a Class A violation for any person to engage in the business as a pawnbroker or precious metal dealer in the corporate limits of the city unless licensed and in full compliance with K.S.A. 16-706 et. seq.
- 5-1203. SAME; FEES. The fees for the license required by this article shall be established annually in the budget resolution and is shown in Exhibit C-516. Such permit shall be renewable on the anniversary date each succeeding year.

ARTICLE 13. BUSINESS REGISTRATION LICENSES

WHEREAS, pursuant to KS.A 12-137 and the home rule of authority granted to the City of Liberal ("City"), the City levies occupational taxes, also referred to as business license taxes, on persons and companies doing business in the City, unless preempted by the State; and

WHEREAS, the occupational tax is for the privilege of engaging in business occupations or providing services in the City, and the tax is not based upon gross receipts or income; and

WHEREAS, the City Commission finds that it would be beneficial and advantageous for the City of Liberal to have such regulations in place in order to assist the City in identifying the precise composition of its commercial community in order for the City to better determine how to enhance economic development within the city, incorporate land use regulations and other City regulations and ensure that all local sales taxes are being collected and remitted; and

WHEREAS, business licenses serve an important role in guiding new development by assuring businesses locate in the appropriate zoning category and buildings are designed to safely accommodate the businesses' activities:

- 5-1301. DEFINITIONS. The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

(a) "Business" includes all activities, vocations, occupations, professions, enterprises, establishments, or pursuits located and/or otherwise doing business within the city, with the object of gain, benefit or advantage to the person engaging in the same.

(b) "Person" includes any individual, partnership, corporation, firm, organization, association, joint stock company or syndicate who or which is engaged in any business, trade, occupation or profession or rendering or furnishing any service and subject to the provisions of this Ordinance. Any individual in the direct employ or any person licensed under the provisions of this Ordinance is not a person, unless such individual operates as a subcontractor. But, if such individual operates or practices his skill for compensation for any person other than his licensed employer, he is a person and must pay the tax or fee and obtain a License if such be required by the terms of this Ordinance.

(c) "Business license" means that document issued by the city licensing the transaction of the indicated business by the person whose name appears thereon for the stated period.

(d) "Engaging in business" means commencing, conducting or continuing in any business within the city, whether or not an office or physical location for the business lies within the city. "Engaging in business" includes, but is not limited to, the following:

(i) the performance of work or services by contractors, consultants, representatives, agents or other persons within the city, even though the office location of the contractor, consultant, representative, agent or other person is not within the city limits;

(ii) the exercise of corporate or franchise powers, as well as the liquidation of a business when the liquidators hold themselves out to the public as conducting such business;

(iii) acting as a solicitor or canvasser; and

(iv) furnishing temporary employees and/or workers to other businesses.

(e) "Place of business" or "office" includes, but is not limited to, the following:

(i) maintaining, occupying, or using a permanent building or facility or fixed location as an office or location for conducting business;

(ii) a location where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control;

(iii) a location which includes a business sign, mailing address, and permanent phone.

(f) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved. Persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in business, and sales made by them of the type of property which they hold themselves out as selling are not casual or isolated sales even though such sales are not made frequently.

(g) "City" means the City of Liberal, Kansas.

(h) "City Clerk" or "director" means the City of Liberal clerk or his/her designee.

(i) "Year" means a calendar year, except where otherwise specified or when permission is obtained from the City Clerk to use a different fiscal year.

- 5-1302. **BUSINESS LICENSE REQUIRED.** Unless otherwise exempted from this Ordinance, it shall be unlawful for any person, to conduct, pursue carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the City Clerk.
- 5-1303. **SEPARATE LICENSES REQUIRED.** A separate business license shall be obtained for each separate location within the city at which the business is conducted. A separate business license shall be obtained for each different and discrete business conducted within the city by any person, even if located at the same premises as another licensed business.
- 5-1304. **CONTINUING REQUIREMENT FOR OTHER LICENSES.** Any business or profession required to be licensed by any other provision of city, state, county, local or federal law shall continue to be responsible for obtaining and maintaining such licensure. Nothing in this ordinance excuses a business from obtaining all other necessary licenses, and the issuance of a business license under this ordinance shall not excuse a licensee from compliance with any other law.
- 5-1305. **OTHER SPECIFIC LICENSES.** Nothing in this ordinance shall, to repeal or be in conflict with any other provisions of this Code imposing or requiring the payment of a license fee or permit fee as a condition for carrying on or engaging in any other specific business, occupation or profession not licensed herein.
- 5-1306. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the City shall be assignable or transferable, nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds.
- 5-1307. **BUSINESS LOCATION.** No business license for a particular location shall be issued unless the personal property and real estate taxes for that location are paid in full or timely under protest.
- 5-1308. **CHANGE IN NATURE OR LOCATION OF BUSINESS.** Each business license shall authorize a particular type of business at the designated location. Any change in the nature of the business shall necessitate a new request for a business license. A change of location shall be reported in writing to the City Clerk within ten (10) days of the change and, if in compliance with zoning and business regulatory ordinances, the existing business shall be transferred to the new location.
- 5-1309. **CERTIFICATE OF OCCUPANCY REQUIREMENT.** The issuance of a business license by the City does not constitute either approval of a business or the use of any particular parcel in the city for a business purpose. All businesses shall be required to obtain a certificate of occupancy prior to the issuance of a business license to protect public health, safety and welfare of

the community. By issuing a business license, the City shall not be precluded from taking enforcement action against any use that is not authorized in the zone in which it is occurring. The procurement of a business license does not vest the licensee with any rights to continue a nonconforming or unsafe use.

5-1310. HOME OCCUPATION CERTIFICATE OR SPECIAL USE PERMIT. The issuance of a business license by the City does not constitute either approval of a business or the use of any particular parcel in the city for a business purpose. All Home Occupation businesses or Special Use business shall be required to obtain a Home Occupation Certificate or Special Use Permit prior to the issuance of a business license to protect public health, safety and welfare of the community. By issuing a business license, the City shall not be precluded from taking enforcement action against any use that is not authorized in the zone in which it is occurring. The procurement of a business license does not vest the licensee with any rights to continue a nonconforming or unsafe use.

5-1311. BUSINESS LICENSE EXEMPTIONS. The following shall be exempt from the provisions of this ordinance:

(a) Casual or isolated sales made by persons who are not engaged in the on-going business of selling the type of property involved, or the provision of isolated services made by persons, to include but not be limited to minors, who are not in the on-going business of providing said services.

(b) No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state of Kansas shall be required to pay any business license fee imposed by the City. (K.S.A. 12-1617)

(c) Any instrumentality of the United States, State of Kansas, Seward County or any political subdivision thereof, with respect to the exercise of governmental functions.

(d) Non-profit organizations, including but not limited to religious, civic, charitable, benevolent, non-profit, and cultural or youth organizations. The exemption of a business license by the City does not constitute approval of a non-profit organizations use of any particular parcel in the city for a non-profit organizations purpose. All non-profit organizations shall be required to obtain a certificate of occupancy to protect public health, safety and welfare of the community. By this exemption, the City shall not be precluded from taking enforcement action against any use that is not authorized in the zone in which it is occurring. The exemption of a non-profit organization does not vest the organization with any rights to continue a nonconforming or unsafe use.

(e) All scientific or literary or educational lectures and entertainments, or concerts or musicals or other entertainments exclusively given or sponsored by residents or established organizations of the city.

(f) The interstate portion of any business.

5-1312. REQUIREMENTS FOR BUSINESS LICENSE. Every person, firm or corporation desiring to do business in the city shall contact the City Clerk for a license to operate such business, and in the case of new licenses and as otherwise required, shall obtain a certificate of occupancy before the commencement of business and issuance of the license. Upon proof that all

requirements are met, the City Clerk shall issue to the applicant a license which shall be signed by the City Clerk. It shall be the duty of the City Clerk to pay over the amount so collected on each license issued, to the City Treasurer of the City.

The City Clerk shall issue business licenses in the name of the City to all persons or businesses qualified under the provisions of this ordinance and shall:

a. Adopt all forms and prescribe the information required. Such information shall include but not limited to the date on the day of issuance, the name of the licensee, the kind of business licensed, the amount paid, and the time such license shall expire; and the person having such license shall be authorized to carry on the business therein named.

b. Submit all requests to the Planning Division and Building Division; the Police Department; and/or the Fire department as necessary for their endorsements as to compliance by applicant with all City regulations which they have duty of enforcing.

c. Shall determine all requirements for obtaining a business license and shall provide a list of the same to all who inquire.

d. The City Clerk shall keep a record in which shall be entered the name of each person license, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefore, and the time the same shall expire and within 24 hours after any license has expired, the City Clerk shall notify the person of such expiration unless the same shall have been renewed.

5-1313. BUSINESS LICENSE FEE. The fees for all licenses shall be established by the City of Liberal Fee Resolution, and may be changed from time to time. Any change in the license fee resolution shall apply to a licensee at the time of initial issuance or at the new renewal, but shall not apply retroactively to a license already in effect.

5-1314. TERM OF BUSINESS LICENSE. Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year. All business licenses shall be effective for the calendar year of issuance. Licenses issued during a given calendar year shall be effective from the date of issue until December 31 of the same year. Unless renewed, as provided in this ordinance, each business license shall expire and be of no force or effect on January 1 of the following year, unless sooner revoked as provided in this ordinance. Licenses shall not be prorated.

5-1315. RENEWAL OF BUSINESS LICENSE. All business licenses shall be renewed on or before January 1 of the calendar year of issuance, if the business is to be continued. Request for renewal shall be made on forms prescribed by the City Clerk.

5-1316. PAYMENT OF FEES; RECEIPT. The City Clerk shall, upon payment of any license fee specified, give a receipt therefore stating the amount paid, the

nature of the licenses issued, and if possible, the exact location where the business is to be carried on, and the kind of business. No license shall be issued until the fee is paid.

5-1317. **DISPLAY OF BUSINESS LICENSE.** It shall be unlawful for any person to engage in business at any location within the city without posting and displaying, prominently and in clear view, the valid business license authorizing such business at such location. All persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the City.

5-1318. **INSPECTIONS – RIGHT OF ENTRY.** The City Clerk or designee or authorized representative of the City of Liberal, specifically including the Building Official or Inspector, the Code Enforcement Officer, the Police Department or the Fire Department, are authorized to make such inspections of licensed premises and take such action as may be required to enforce the provisions of any business license or regulation ordinance.

5-1319. **REVOCAION OF BUSINESS LICENSE.** Once issued, all businesses must comply with all city, county, state and federal laws, and the existence of a City of Liberal Business license does not authorize a business to operate in violation of any other laws. A license issued under this ordinance may be revoked or suspended for any one or more of the following reasons:

- a. Failure to comply with any federal, state, or local laws or regulations;
- b. Failure to comply with any of the terms and conditions imposed by the City on the issuance of the business license.
- c. Failure to operate the business or activity in accordance with any federal, state or local law or regulation.
- d. When the license was procured by fraud or false representation of facts;
- e. When the license was issued through mistake or inadvertence;
- f. When the request contains false or misleading statements, evasions or suppression of material facts.

5-1320. **EFFECT OF BUSINESS REVOCATION OR SUSPENSION.** If any registrant has a business license revoked for any reason, a new business license shall not be granted to the applicant and/or any entity in which the applicant has an ownership interest until it is established that the basis for revocation or suspension no longer exists, and all business activity shall immediately cease from the date of such revocation or suspension.

5-1321. **PENALTIES AND LEGAL REMEDIES.**

- a. **Criminal Penalties.** If any business operates without a business license in violation of this Ordinance, said business will be given a 30 day “grace period” to cure said violation. Failure to cure said violation within 30 days of the date in which the business license should have been obtained and/or renewed will subject the business to criminal penalties under this section. For each thirty (30) day period in which a business operates without a business license, a separate violation occurs. Violation of this Section is a

Class C violation. Upon a first conviction, the business shall be fined \$50.00. Upon a second conviction, the business shall be fined not less than \$100 nor more than \$500. Upon a third or subsequent conviction, a person shall be fined not less than \$250 nor more than \$500.

b. Civil Penalties. Any person who fails to comply with the provision of this ordinance is, in addition to any criminal penalties, subject to a maximum civil penalty consistent with the criminal penalties set forth above. The payment of a fine or the serving of a jail sentence for failure to pay the required tax or fee and secure a License shall not constitute payment of the tax or fee nor excuse the person from making payment, and the City may proceed by civil action to collect the tax or fee and interest and penalties accrued thereon.

c. Other Legal Remedies. Nothing in this ordinance limits the right of the City to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this ordinance.

5-1322. MAILING OF NOTICES. Any notices required by this ordinance to be mailed to any registrant or applicant shall be sent by ordinary mail, addressed to the address of the registrant or applicant, as shown by records of the City Clerk; or if no such address is shown, to such address the City Clerk is able to ascertain by reasonable effort. Failure of the applicant to receive such mail notice shall not release the applicant from any fees or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this ordinance.

5-1323. MAILING OF NOTICES. Any notices required by this ordinance to be mailed to any registrant or applicant shall be sent by ordinary mail, addressed to the address of the registrant or applicant, as shown by records of the City Clerk; or if no such address is shown, to such address the City Clerk is able to ascertain by reasonable effort. Failure of the applicant to receive such mail notice shall not release the applicant from any fees or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this ordinance.

5-1324. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

5-1325. DUE PROCESS. Should the City take any action which is deemed detrimental to the holder of the business license, said holder of the business license may appeal the City's decision to the City Commission by writing a letter stating the basis of his appeal. Any appeal must be taken within thirty (30) days of the challenged action. An appeal is deemed perfected by delivering a copy of the appeal letter to the City Clerk. Any such appeal will be heard at the next available regular City Commission meeting.

5-1325. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be effective on January 1, 2010. (2009, Ord. 4371)

ARTICLE 14. GARAGE SALES

5-1401. DEFINITIONS. For the purpose of this ordinance, the following terms, phrases, words and the derivations shall mean:

(A) Garage Sale. Hereby defined to mean general sales, or casual sales to the public conducted from or on a residential premise in any residential district, or from a temporarily arranged site elsewhere within the corporate limits of the City, for the sole purpose of disposing of personal property including, but not limited to, all sales or giveaway's entitled "garage, moving, lawn, yard, attic, porch, backyard, patio, basement, curb" or other similarly intended nature.

(B) Casual Sale. For the purpose of this Ordinance shall mean sales at which more than one (1) item is displayed or available for sale at one time.

(C) Officer. Officer pertains to any City of Liberal, Building Inspector's, Code Enforcement Officer's, or Police Officer's that can issue NTA's (Notice to Appear).

(D) Person(s). Is any person, firm, partnership, association, corporation, company, or organization of any kind.

(E) Personal Property. Property which is utilized owned and maintained by an individual or by members of a residence and acquired in the normal course of living in or maintaining of a residence. It does not include merchandise which was purchased for resale or obtained from other garage sales, close-outs, fire sales, or other quantity liquidations, or commercial consignments.

5-1402. NUMBER OF GARAGE SALES. There shall be no person(s) or household(s) holding more than one (1) garage sale during a calendar quarter, nor more than four (4) in a calendar year. A calendar year begins January 1, and ends December 31. If members of more than one residence join in holding a garage sale, then such sale shall be considered as having been held for each and all such residences.

5-1403. NUMBER OF DAYS. Garage sales may be held for no more than three (3) consecutive days in the same week.

5-1404. DISPLAY OF SALE MERCHANDISE. Personal property offered at the garage sale shall not be displayed in any place other than a dwelling unit, garage, car port, accessory use building, driveway or front yard. Display of items in the public right-of-way or within 10 feet of the curb is prohibited.

5-1405. PERMITS. Persons wishing to conduct a garage sale must first obtain a free permit (no fee) from City Hall. Permits can also be obtained by completing an online form at www.cityofliberal.org/garagesales and printing the permit out on their home computer. The purpose of the permit is to identify the responsible person(s) conducting the sale and to provide

important information regarding this ordinance and other applicable laws.

- 5-1406. **PERMITS ON PREMISE.** Person(s) conducting a garage sale and have obtained a free permit (no fee) from either City Hall, or a printed out the permit from the City official web site must possess the permit at the garage sale site.
- 5-1407. **DELINQUENT PERMITS.** If the person(s) conducting a garage sale fail to obtain a permit to the sale, a City Officer will advise the responsible person(s) to immediately obtain a delinquent permit at City Hall; if it is after City Hall business hours, a weekend, or a holiday, they must obtain the delinquent permit on the first business day following the sale. The delinquent permit fee is \$20.00.
- 5-1408. **SIGNS.**
 (A) Off Premise. All off-premise signs advertising the garage sale shall be in compliance with the City's sign ordinance.
 (B) Premise. A maximum of two (2) on-premise signs may be placed within the property of the sale.
 (C) City Right-of-Way. No "ON" or "OFF" premise sign shall be placed in the public right-of-way.
- 5-1409. **ILLEGAL SIGNS, DISPOSITION.** Signs found within the City which are unlawfully posted upon utility poles, trees or posts, or are placed on sidewalks, in the right-of-way, or any other area not allowed by this ordinance, or by the Cities adopted Zoning Ordinance, are hereby declared a nuisance to public safety, as they detract from the driving public's attention to traffic signals as well as other vehicular and pedestrian traffic. Officers may summarily remove posted signs as evidence of unlawful activity in preparation for prosecution. If no prosecutorial action is taken, the signs may be destroyed.
- 5-1410. **VIOLATION AND PENALTIES.** Any person who shall violate a provision of this ordinance or shall fail to comply with any of the requirements thereof shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$250.00 dollars or not to exceed \$500.00 dollars (\$500.00 - \$1000.00 for a repeat offense). Each separate day or any portion thereof during which any violation of this code occurs or continues shall be deemed to constitute a separate offense and upon conviction thereof shall be punishable as herein provided. (2011, Ord. 4401)

ARTICLE 15. MOBILE FOOD VENDORS

- 5-1501. **EXEMPTIONS.** The following activities, businesses, organizations or persons shall be exempt from the licensing provision of this article:

(a) Activities or businesses where a permit has been obtained, if applicable, or where such activity or business is sponsored in part by the city, civic organizations, not-for-profit organizations, charitable organizations, public or private schools, or educational institutions.

(b) Auctions regulated by this code or state statute.

(c) Sales of agricultural products, nursery products and foliage plants at an organized farmer's market or other such event at a specified location; that such sales of agricultural products, nursery products and foliage plants shall comply with the prohibitions listed in 8-504.

(d) Food services establishments, except as noted herein, that are otherwise regulated and inspected by the Kansas Department of Health and Environment. Notwithstanding the foregoing, this exemption specifically excludes mobile restaurants, mobile food service units, street food vendors, or push food carts as included in the definition of food service establishments in K.S.A. 36-501

(e) Sales at wholesale to retail merchants by commercial travelers or selling agents in the course of business.

(f) Sales to the owner or legal occupant of residential premises at such premises pursuant to prior invitation by owner or legal occupant. Such invitation shall have been issued by the owner or legal occupant at least 24 hours prior to the sale and invitation shall not have been solicited in person, but by other means such as telephone, mailing, emailing, internet, or other advertisement.

5-1502. ENFORCEMENT. It shall be the duty of any law enforcement officer, the Building Official, or his designee to require any person engaged in activities defined in this article who is not known by such officer to be duly licensed, to produce the person's local or non-local mobile food vendors license and enforce the provisions of this article against any person found to be in violation. The Building Official, or designee, the chief of police, or any law enforcement officer shall have the authority to order any person or business found to be in non-compliance with the license requirements of this article, to immediately cease and desist doing business until the appropriate license is obtained.

5-1503. PROHIBITED ACTS. It shall be unlawful for any Mobile Food Vendors to:

(a) Conduct business or carry on activities in violation of any zoning requirements of the city, including setback requirements.

(b) Conduct business or carry on activities within a residential zoning district, unless at an approved block party event with an authorized temporary street closure, or other private event and parked on a private driveway;

(c) Fail to provide adequate parking (a minimum of 5 spaces per truck) for customers or other persons going to and from the activity or business conducted by the mobile food vendors, or to allow or encourage any traffic or parking congestion which interferes with traffic flow or the use of parking facilities by permanent business entitled to use the parking areas.

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- (d) Use any electronic device for amplification in an outdoor area or to otherwise create, or gather people who create, noise sufficient so as to disturb the peace, quiet or response of surrounding residential or commercial areas.
- (e) Provide any false or misleading information in completing the license application or to fail to obtain permission of the property owner where such activity or business is being conducted.
- (f) Fail to provide at the request of the purchaser or customer, a written receipt for purchases exceeding \$5.00.
- (g) Fail to provide any customer, or other person, with his/her name, the name of the company or organization represented, the name of the product, or to make any representation as to identity which is false or misleading.
- (h) Fail to allow authorized law enforcement officers or city employees to enter in to or upon the premises or to otherwise, interfere with any inspection of the premises or business.
- (i) Fail to remove any structure, devise, trash or debris caused, created or associated with the mobile food vendors activities in an outdoor area.
- (j) Erect or display more than one sign or any sign greater than 16 square feet in total area. Streamers, pennants, search lights and any device with flashing, blinking, rotating or moving actions or messages are prohibited. No signage shall be placed in a public right-of-way.
- (k) Erect or construct any structure, tent or building greater than 120 square feet.
- (l) Conduct or carry on activities within 50 feet of any driveway entrance or access lane from a public street to an existing business.
- (m) Conduct business or carry on activities within the public right-of-way or other publicly owned property. (Except at city sanctioned events at the request of the event holder)
- (n) Fail to ensure that trash receptacles are provided with each Mobile Food Vendor. In order to be in compliance such receptacles shall be, a minimum of 30 gallons and attached to the Unit or located within fifteen feet of the Unit and cannot interfere with vehicle access, pedestrian movement or handicap-accessible routes to and around the Unit. Immediately upon the cessation of vending, the Mobile Food Vendor shall remove and properly dispose of all trash and litter accumulated at the vending site. Mobile Food Vendors located at one location for longer than Three (3) months are responsible for having their own trash containers and are responsible for all fees associated through the City of Liberal providing and emptying of the same.
- (o) Dispose of grease or other byproducts in a manner violating City code.
- (p) Park upon any property without the written permission of the property owner, or their designee. A copy of the written permission shall be kept in the food truck at all times.

5-1504. Protection of lawns, yards. It shall be unlawful for any person engaging in a mobile food vendor business to cut across or walk upon any

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

5-1505 FIRE SAFETY. All Mobile Food Vendors are subject to annual fire safety inspections and shall comply with the following requirements:

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

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

(3) The hood system grease collection must be cleaned frequently to minimize grease build up. Type I hoods systems shall be serviced annually.

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

5-1506. FRAUD. All persons licensed under the provisions of this article shall certify that while doing business in the city they will strictly comply with all the ordinances of the city. Any licensee who shall be guilty of any fraud, cheating or misrepresentation, whether through themselves or through an employee, while doing business in the city shall be deemed guilty of violation of this article.

5-1507. LICENSE REQUIRED. No person shall engage in the activities coming under this article within the city without first obtaining a license. Any applicant for a license under this article shall file with the building department an application on a form furnished by the building department, which shall give information, or provide documentation, as follows:

(1) Name, date of birth, and permanent residential address of applicant, applicant must be at least 18 years of age;

(2) If the applicant is not an individual, the name and address of the officers of the corporation or members of the partnership, association, or other entity. If the applicant is a corporation, the name and permanent address of the applicant's registered agent or office;

(3) Date(s) and time(s) for which the license is desired;

(4) A description of the location and nature of the business, the goods, wares, merchandise to be sold, and the manner in which the sales will occur;

(5) Description of any temporary structures to be erected, constructed and used by applicant;

(6) Proof of current sales tax license from the State of Kansas or proof of exempt status from state sales tax.

5-1508. ISSUANCE OF LICENSE. The Building Official, or designee when necessary, shall examine the application filed under this article and shall make, or cause to be made, such further investigation of the application and the applicant deemed necessary. The licensee shall be notified by the building department of the decision on the issuance or denial of the license within 3 business days after the application has been filed and a satisfactory inspection has been completed. Such license, when issued, shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and nature of the business involved. The building department shall keep a permanent record of all such licenses issued and submit a copy of such license to the city manager. The licensee shall carry the license at all times when conducting business in the city.

5-1509. LICENSE DENIAL; REVOCATION.
(a) The building official may deny or revoke any license issued under this article, for any of the following cause:
1. Fraud, misrepresentation or false statement contained in the application for license.
2. Fraud, misrepresentation or false statement made in the course of carrying on the business.
3. Any violation of this article.
4. Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city.
5. Noncompliance with Chapter 8, Article 1 of the code.

Notice of revocation of a license shall be in writing to the applicant at the residence address listed on the application, and set forth the grounds of revocation.

Any person aggrieved by the action of the city in the denial or revocation of a license shall have the right of appeal to the governing body. Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation or denial of the license has been mailed to such application's last known address setting forth the grounds for appeal. The applicant or licensee may not engage in the mobile food vendor business during the appeal process. The governing body shall set a time and place for a hearing on the appeal and provide notice of the hearing to the applicant. The decision of the governing body on such appeal shall be final.

5-1510 PENALTY. Any violation of this code shall be punishable by a fine of not more than \$2,500.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned.