

## CHAPTER V. BUSINESS REGULATIONS

- Article 1. Solicitors, Canvassers, Peddlers
- Article 2. Pawnbrokers and Precious Metal Dealers
- Article 3. Adult Entertainment Establishments and Hotels
- Article 4. Escort Services

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### ARTICLE 1. SOLICITORS, CANVASSERS, PEDDLERS

5-101. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

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

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

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

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

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

purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

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

(f) Street salesman - shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the streets or sidewalks of this city, or in the city right of way.

(Code 1991)

5-102. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-207(d). (Code 1991)

5-103. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

(g) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) A state or government issued photo id;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations) or violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred.

(k) The applicant's Kansas Sales Tax number;

(l) Emergency contact information.

(m) Each representative is required to carry a copy of the license.

(Code 1991; Code 2010)

5-104. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.

(a) Upon receipt of the above application from an applicant, the city clerk shall refer the same to the Director of Public Safety who shall cause an investigation of the fact stated therein to be made within five days.

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

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the Director of Public Safety shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license 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 the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Director of Public Safety. The licensee shall carry the license certificate at all times. (Code 1991)

5-105. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-202 shall be established by the from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or

wholesale business shall receive a license as required by section 5-202 upon the payment of \$100.00 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of:

(1) Any person selling products of the farm or orchard actually produced by the seller within the State of Kansas;

(2) Any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and

(3) Any not-for-profit organizations within Butler County.

(K.S.A. 12-1617; Code 1991; Code 2010)

5-106. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a one year period prior to the renewal date. The city clerk need not require an additional application under section 5-203 or an additional investigation and investigation fee under sections 5-205:206 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 1991; Code 2010)

5-107. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or Director of Public Safety may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(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 a business as defined in section 5-201 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. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(Code 1991)

5-108. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the Director of Public Safety or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or

mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.

(Code 1991)

5-109. REGULATIONS. (a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

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

(Code 1991)

5-110. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets or city right of way for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public or city right-of-way.

(Code 1991; Code 2010)

5-111. DISTURBING THE PEACE. No licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. Without prior approval from the city manager. (Code 1991)

## ARTICLE 2. PAWNBROKERS AND PRECIOUS METAL DEALERS

5-201. DEFINITIONS. As used in this article:

(a) 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.

Pawnbroker - does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit commissioner of this state.

(b) Person - means any individual, firm, company, partnership, corporation or association.

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

(d) Precious Metal Dealer - means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form.

(Ord. 1452, Sec. 1)

5-202. LICENSE APPLICATION; FEE. (a) No person shall engage or continue in business as a pawnbroker or precious metal dealer within the city, without first obtaining a license therefor from the city clerk.

(b) Application for a license shall be in writing and shall state the full name and place of residence of the applicant. If the applicant is a partnership, the application shall contain the name and place of residence of each member thereof, or, if a corporation or association, of each officer, shareholder or member thereof. The application shall include the address of the places where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in the business of pawnbroking or dealing in precious metals at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this article. Each applicant also shall submit with the application:

(1) A statement that the applicant is the holder of a valid registration certificate issued by the director or revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made;

(2) A detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge or for sale at the time of the application at each place of business dated therein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale.

(c) The license application shall be in a form approved by the attorney general. Each application shall be accompanied by a fee which shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas. All such fees received by the city clerk shall be deposited in the city general fund. Any license or renewal thereof shall be subject to the qualifications set out in K.S.A. 16-708. (Ord. 1452, Sec. 2)

- 5-203.           DISPLAY OF LICENSE. The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof, and, if a corporation, the date and place of its incorporation, and the names of all shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all the provisions of this act governing the issuance of an initial license. (Ord. 1452, Sec. 3)
- 5-204.           EXAMINATION OF BOOKS. Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the city to determine whether such licensee is complying with the provisions of this article. Such city may examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person, acts or claims to act as principal, agent or broker, or under or without authority of this article. The duly designated representatives of the city shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults. (Ord. 1452, Sec. 4)
- 5-205.           REPORT OF PROPERTY. (a) On or before Tuesday of each week, every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received. Such report shall include all property purchase as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.
- (b) Such report shall be submitted to the director of public safety of the city.
- (c) All reports made pursuant to this section shall comply with and be submitted in accordance with the terms of any applicable city ordinances requiring such reporting.
- (d) Every precious metal dealer shall retain in the dealer's possession for a period of 10 days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The 10-day period shall commence on the date that the director of public safety receives the report of its acquisition in compliance with this section. If the director of public safety has probable cause to believe that any precious metal reported by a dealer has been stolen, he or she may give written notice to the dealer to retain such

metal for an additional period of 15 days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional 15 day period unless the director of public safety notifies the dealer in writing that the waiting period is terminated at an earlier time.

(e) Reports made pursuant to this section shall be available for inspection only by law enforcement officers and county and district attorney's and their employees, for law enforcement purposes.  
(K.S.A. 16-715; Ord. 1452, Sec. 5)

5-206. RECORD OF TRANSACTIONS. (a) At the time of making a loan, a pawnbroker shall enter in a book kept for that purpose:

(1) The date, duration, amount and charges of every loan made by the pawnbroker;

(2) A full and accurate description of the property pledged;

(3) The name, age, residence and driver's license or other personal identification number of the pledgor.

(b) At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:

(1) The date of the purchase;

(2) A full and accurate description of each item purchased, including any identifying letter, numbers or marks on the items; and

(3) The name, age, residence and driver's license or other personal identification number of the seller.

(c) The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of the transaction.

(Ord. 1452, Sec. 6)

5-207. PROHIBITED TRANSACTIONS. (a) No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of 18 years.

(b) No precious metal dealer shall purchase any precious metal from any person under the age of 18 years.

(Ord. 1452, Sec. 7)

5-208. REQUIREMENTS IN PRECIOUS METALS TRANSACTIONS. (a) A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

(2) A signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where and in what manner such metal was acquired by the seller.

(b) When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorneys' fees incurred by the rightful owner;



if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property.

(Ord. 1452, Sec. 8)

### ARTICLE 3. ADULT ENTERTAINMENT ESTABLISHMENTS AND HOTELS

5-301.

DEFINITIONS. For the purpose of this chapter, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(a) "Adult entertainment establishment" - means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, or adult motion picture arcade as defined herein.

(b) "Adult bookstore" or "adult video store" - means an establishment which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, or video reproductions, slides, or other visual representations which depict or describe "specified" sexual activities or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal, business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas" (as defined below).

(c) "Adult motion picture theater" - means an enclosed building designed for five or more patrons used for presenting any material distinguished or characterized by an emphasis on matters depicting, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below) for observation of patrons therein. The term does not include an adult hotel as defined below.

(d) "Adult motion picture arcade" - means any place at which slug or coin operated, electronically or mechanically controlled, still or motion picture machines, projector or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and which presents material which is distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas" (as defined below) for observation by patrons therein. The terms does not include an adult hotel as defined below.

(e) "Adult hotel" - means a hotel or motel wherein a substantial or significant portion of the material presented over image-producing devices within individual rooms, that are occupied by guests, are distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas" (as defined below).

(f) "Employee" - means any and all persons, including independent contractors who work in, at, or render any services directly related to the operation of an adult entertainment establishment but shall not include independent contractors indirectly related to such operation such as janitorial services, construction, maintenance, pest control, and trash removal.

(g) "Specified anatomical areas" - means the following:

(1) Less than completely and opaquely covered:

- (A) Human genitals, pubic region;
- (B) Anal cleft or cleavage of the buttocks; and female breasts below a point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (h) “Specific sexual activities” - means the following:
  - (1) Human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse or sodomy;
  - (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts with the intent to arouse or gratify the sexual desires of the entertainer, employer, or customer.
- (i) “Person” - means any person, partnership or corporation or joint venture.
- (j) “Operator” - means any person operating, conducting or maintaining an adult entertainment establishment.
- (k) “Morals charge” - includes those charges involving prostitution, pimping or promoting prostitution, indecent exposure, illegal use, possession or sale of narcotic or non-narcotic drugs, sodomy, lewd and lascivious behavior, sexual battery, indecent liberties with a child, incest, bigamy and crimes against nature.
- (l) “Diversion” or “diversion agreement” - means any formal referral of a defendant in a criminal case to a supervised performance program which upon successful completion results in the dismissal of the charges or complaint which is authorized pursuant to the laws of any city, state, or of the United States.  
(Ord. 1718, Sec. 1; Code 2010)

5-302.

LICENSE REQUIRED. (a) Except as provided in subsection (e) below, from and after the effective date of the ordinance codified in this chapter, no adult entertainment establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city.

(b) A license may be issued only for one adult entertainment establishment located at a fixed certain place. Any person which desires to operate more than one adult entertainment establishment must have a license for each.

(c) No license or interest in a license may be transferred to any other person.

(d) It is unlawful for any employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operating of any unlicensed adult entertainment establishment.

(e) All existing adult entertainment establishments at the time of the passage of the ordinance codified in this chapter must submit application for a license within sixty days of the date the ordinance codified in this chapter becomes effective. If an application for such license is not made within a sixty-day period, then such existing adult entertainment establishment shall cease operation. Nothing herein shall be construed to prohibit the city’s right to refuse to grant a license to an existing adult entertainment establishment that upon application is not eligible for a license under this chapter.

(Ord. 1718, Sec. 1; Code 2010)

5-303. APPLICATION FOR LICENSE. (a) Any person desiring to secure a license shall make application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.

(b) The application for a license shall be on a form provided by the city clerk's office. A partnership application and the application of any officer or director of a corporation and any stockholders holding more than five percent of the stock of a corporate application shall furnish the following information under oath:

(1) Name and address, including all aliases;

(2) The name of the owner of the premises upon which the adult entertainment establishment is to be located;

(3) The address of the adult entertainment establishment to be operated by the applicant;

(4) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying with them.

(Ord. 1718, Sec. 1; Code 2010)

5-304. LICENSE FEES. For any adult entertainment establishment the annual license fee shall be established from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1718, Sec. 1; Code 2010)

5-305. LICENSE; ELIGIBILITY REQUIREMENTS. To receive a license to operate an adult entertainment establishment, applicants must meet the following standards:

(a) If the applicant is an individual (1) the applicant must be at least eighteen years of age; (2) the applicant shall not have been convicted of, or pleaded nolo contendere to, or participated in a diversion agreement after having been charged with a felony or any morals charge as defined herein in any jurisdiction within the last five years immediately preceding the date of the application.

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or any other type of organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent of the stock of a corporation.

(2) No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall have been convicted of, or pleaded nolo contendere to, or participated in a diversion program after having been charged with a felony or any morals charge within the immediate five years preceding the date of the application.

(Ord. 1718, Sec. 1; Code 2010)

5-306. EXAMINATION OF APPLICATION BY CITY COUNCIL. If an application for a license is in proper form and accompanied by the license fee as provided for in Section 5-504 the city council shall, after review and recommendation by the city manager, examine the application. If the applicant is fully qualified pursuant to the guidelines set forth in this chapter, the city council shall issue a license to the

applicant within thirty days of the filing of the application, if the city council fails to act on the application within thirty days after it is filed, it shall be deemed granted. If the city council denies the application within thirty days of the filing of the application, the application is deemed finally denied and the same application may not be made within one year unless there are changed circumstances. If the council denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A. 60-2101(d) and amendments thereto within thirty days of the denial. If an application is denied by the city council over thirty days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons in Section 5-514 of this article. (Ord. 1718, Sec. 1; Code 2010)

5-307. DISPLAY OF LICENSE REQUIRED. The license shall be displayed in a conspicuous public place within premises licensed as an adult entertainment establishment. (Ord. 1718, Sec. 1; Code 2010)

5-308. RENEWAL OF LICENSES. Every license issued pursuant to this chapter shall terminate at the expiration of one year from the date of issuance, unless revoked sooner, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application for renewal to the city clerk's office. The application for renewal shall be filed in duplicate and dated by the city clerk. An application for renewal license filed after the expiration date of the license shall not be accepted if the premises the renewal license is being sought for does not comply with the distance requirements set forth in Section 5-513. A renewal application shall in all other respects be treated as an application for an initial license. (Ord. 1718, Sec. 1; Code 2010)

5-309. GENERAL REGULATIONS. Every operator or employee of an adult entertainment establishment shall comply with the following regulations and the failure to comply with the regulations shall be unlawful:

(a) No person under the age of eighteen shall be employed in or within 200 feet of an adult entertainment establishment.

(b) No person under the age of eighteen shall be permitted to enter or remain in an adult entertainment establishment.

(c) No persons shall be knowingly employed in or within 200 feet of an adult entertainment establishment who within one year prior to employment was released from probation from a conviction for a crime of, or participated in a diversion agreement after being charged with a morals charge or a felony.

(d) Every adult entertainment establishment and every person employed by the establishment in the conduct of his or her business shall admit to any and every part of the premises designated in the license at any time any law enforcement officer or official of the city authorized by the Director of Public Safety for inspection of the premises to assure compliance with the regulations of the city. Except that this provision does not apply to rooms occupied by patrons of an adult hotel during period of such occupancy.

(e) Every adult entertainment establishment must maintain for inspection a list of all employees providing services directly related to the operation of the establishment including their date of birth, race, sex, and social security number.

(Ord. 1718, Sec. 1; Code 2010)

5-310. ALCOHOLIC BEVERAGES. No alcohol, liquor or cereal malt beverage shall be sold or consumed on the premises of an adult entertainment establishment except this provision shall not apply to rooms rented and occupied by patrons in an adult hotel. (Ord. 1718, Sec. 1; Code 2010)

5-311. PROHIBITED CONDUCT. (a) Private Rooms and Closed Booths Prohibited.

(1) Every adult motion picture arcade shall be physically arranged in such a manner that the interior portion of all viewing areas are visible from a common area of the premises and shall not be obscured by any curtains, drapes, doors or other enclosure except under the following conditions:

(i) The booth is designed for a single occupant;

(ii) The booth has a door or curtains which cannot be locked; which may extend downward not closer than fifteen inches from the floor, and which has an open space at the top so that the top of the door or curtain does not extend upward more than six feet from the floor;

(iii) Conspicuous signs state, "only one occupant per booth";

(iv) There are no openings between booths; and

(v) It can readily be determined from outside the booth that there is no more than one occupant inside the booth.

(2) No licensee, manager, employee or agent shall permit or allow two or more occupants to occupy any booth which has been designated as a booth designed for a single occupant.

(3) No person shall enter into or remain in a booth which has been designated with a sign stating "only one occupant per booth" while another occupant is in the booth.

(b) Other Prohibited Conduct. The following conduct by any person licensed under this code including managers or employees thereof or any person under the direction and control of such a licensee occurring on the premises involved is deemed contrary to the public welfare and is prohibited:

(1) Exposing or permitting any person to remain on the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of the male/female pubic hair, anus, buttocks or genitals;

(2) Permitting any employee on the premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or of any patron;

(3) Encouraging or permitting any patron on the premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any employee;

(4) Performing or permitting any person to perform on the premises acts of or acts which simulate:

(i) Sexual intercourse, masturbation, sodomy or any other sexual act which is prohibited by law, or

(ii) Touching, caressing or fondling the breasts, buttocks, anus or genitals of the actor or another;

(5) Using or permitting any person to use on the premises, any artificial device or inanimate object to depict any of the acts prohibited by subsection (4) of this section;

(6) Showing or permitting any person to show on the premises any motion picture, film, photograph, video tape, or other electronic or mechanical visual reproduction depicting:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy or any sexual act which is prohibited by law,

(ii) The touching, caressing or fondling of the buttocks, anus, genitals or female breasts,

(iii) Scenes in which a person displays the buttocks, anus, genitals or female breasts;

(7) As used in this section, the term "premises" means the premises licensed by the city as an adult entertainment establishment, adult bookstore or adult video store and other such areas, under the control of the adult entertainment establishment, adult bookstore or adult video store licensee or his or her employee or employees, that are in such close proximity to the premises licensed as a adult entertainment establishment, adult bookstore or adult video store that activities and conduct of persons within such other areas may be viewed by persons within the premises licensed as a adult entertainment establishment, adult bookstore or adult video store by the city.

(Ord. 1718, Sec. 1; Code 2010)

5-312. COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an adult entertainment establishment unless the licensee fully complies with the health regulations, building codes, zoning ordinances, fire prevention and safety regulations of the city. (Ord. 1718, Sec. 1; Code 2010)

5-313. DISTANCE REQUIREMENTS. (a) No license shall be granted for an adult entertainment establishment or adult hotel which is located within one thousand feet of a church, public or parochial school, public park, public library, residential zoning district, erotic dance studio or any other adult entertainment establishment or adult hotel.

(b) Provided, however, that adult entertainment establishment or adult hotel licenses may be issued for all establishments engaged in the business of adult entertainment establishments or adult hotels as of the date of enactment of the ordinance codified in this chapter, that are located within one thousand feet of a church, public park, public or parochial school, residential zoning district, erotic dance studio or other adult entertainment establishment or adult hotel, so long as the premises are used or held for use as an adult entertainment establishment or adult hotel. This distance is to be measured from the nearest property line of the residential zoning district, church, public or parochial school, public park or other adult entertainment establishment or adult hotel to the nearest property line of the premises on which the adult entertainment establishment or adult hotel is located or of any parking lot designated to be used by the patrons of such an establishment. Provided, however, that:

(1) Such license, once issued, shall not be renewed to any person or premises not identified in the original license; further, that should such a licensed establishment cease to be used for such purpose for a period of

ninety days or more, then and in that event, no new adult entertainment establishment or adult hotel license shall be issued for the establishment except as specifically provided by this chapter.

(2) Should a licensed establishment cease to be used for such purpose for a period of ninety days or more, then and in that event the existing license shall be deemed to expire at twelve a.m., noon, on the 91st calendar day of non-use. In no event shall this provision be construed to extend the term of a license issued under this section. Should a license expire pursuant to this provision, the licensee may make application of the license collector for a refund of the portion of license fee attributed to the remaining period of the license. All such applications must be filed at least thirty days prior to the end of the original term of the license. No refunds shall be made for a period of time less than thirty days.

Periods of time during which such establishments are being remodeled or repaired because of normal wear and tear, desire to improve the quality of the premises, or damage caused by fire or natural disaster such as floods or windstorms, shall not be included in computing the above ninety-day period, provided, that any remodeling or repair must be commenced within ninety days after closure of any structure and completed within a reasonable time thereafter. The chief of police of the Augusta safety department shall be notified in writing within thirty days of closing of such establishment for remodeling or repair, such notice to state the date of commencement and estimated or actual completion of remodeling or repair. Any establishment shall not be relicensed and shall cease to be used as an adult entertainment establishment or adult hotel if repair is not commenced within ninety days after such closure, if such repairs are not completed within a reasonable time thereafter and/or if the chief of police is not notified within the thirty-day time period.

(Ord. 1718, Sec. 1; Code 2010)

5-314.

**SUSPENSION AND REVOCATION OF LICENSE.** (a) The Director of Public Safety after actual service of ten days\* written notice to the person holding a license for an adult entertainment establishment or adult hotel pursuant to this title, shall have the authority to suspend such license for a period not to exceed thirty days, for any violation of the provisions of this chapter or other ordinances or statutes regulating conduct in adult entertainment establishments or adult hotels; provided, however that the licensee may appeal such order of suspension to the city council within seven days from the date of such order.

(b) The city council after actual service of ten days\* written notice to the person holding a license for an adult entertainment establishment, pursuant to this title, may cause to be suspended for a period of not more than thirty days or may permanently revoke such license for the following reasons:

(1) If the licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) If the licensee, manager, operator, or employee has violated any of the provisions of this chapter;

(3) If the licensee has become ineligible to obtain a license under this chapter;

(4) The nonpayment of any license fees payable hereunder;



(5) For knowingly employing a person who has been, within one year prior to the date of employment, or who during the period of employment is adjudged guilty of or participated in a diversion agreement after being charged with a felony or a morals charge, or within one year prior to employment has been released from probation from a felony or a morals charge.

Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, a manager, or agent, then in absence of proof of knowledge by the licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any twelve-month period, his or her license may be revoked on the third such violation.

Upon appeal taken from an order of suspension or revocation the court may stay the order of suspension or revocation upon a showing by the appellant and a finding by the court that a substantial likelihood exists that the movant will eventually prevail on the merits and that the movant will suffer irreparable injury unless the stay is granted. If there is no stay by the court then the order of suspension or revocation shall not be suspended during the pendency of any such appeal. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his or her behalf, for a period of six months after the revocation becomes effective.

(Ord. 1718, Sec. 1; Code 2010)

5-315. PENALTY. Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Ord. 1718, Sec. 1; Code 2010)

5-316. INJUNCTIONS. Section 5-513 of this article is adopted as part of the zoning laws and regulations of the city of Augusta, Kansas. as though said section was fully set forth in the Zoning Regulations of this city. The city attorney may bring an action in the District Court of the Thirteenth Judicial District or any other appropriate court having jurisdiction to enjoin the violation of said section of this code. (Ord. 1718, Sec. 1; Code 2010)

5-317. INVALIDITY OF PART. Should any court declare any section, clause or provision of the article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter. (Ord. 1718, Sec. 1; Code 2010)

## ARTICLE 4. ESCORT SERVICES

5-401. DEFINITIONS. The following words, as used in this chapter, shall have the meaning ascribed to them in this section:

(a) "Consideration" - is money or money's worth.

(b) "Crimes involving moral turpitude" - includes charges of prostitution, patronizing a prostitute, promoting prostitution, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, and possession, sale or distribution of any illegal drug.

(c) "Employee" - means any and all persons including independent contractors who work in, at, or render any services to, the patrons of an escort service, or who render any services directly related to the operation of an escort service.

(d) "Escort" - is any person who is held out to the public as available for hire and who, for monetary consideration in the form of a fee, commission or salary, consorts with or accompanies, or who offers for monetary consideration, to consort with or accompany another or others to or about social affairs, places of entertainment or amusement within any place of public resort or within any private quarters.

(e) "Escort service" - is any person, as defined herein, which for a fee, commission, profit, reward, payment or other monetary consideration furnishes, refers, or offers to furnish or refer escorts, provides or offers to introduce patrons to escorts, or arranges for escorts to accompany patrons to or about social affairs, places of entertainment or amusement, about any place of public resort or within any private quarters.

(f) "Escort service runner" - is any person, not an escort, who for a salary, fee, hire, reward or profit, as the agent for either an escort service or a patron, contacts or meets with escort patrons or escort services at any location other than the established open office, as defined hereunder, whether that person is employed by the escort service or any business, or is self-employed.

(g) "Licensee" - is a person who is the holder of a valid license under this chapter. A licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is or would be prohibited from doing or performing an act or acts under this title.

(h) "Offer to provide acts of sexual conduct" - is to offer, propose or solicit to provide sexual conduct to a patron. Such definitions include all conversations, advertisements and acts which would lead a reasonably prudent person to conclude that such acts were to be provided.

(i) "Open office" - is an office at the licensed escort service address from which escort business is transacted. To qualify as an open office it is required that:

(1) Business hours be established and posted, that the office be open to the public and patrons or prospective patrons during such business hours, and that the office be accessible to business invitees, license officials and law enforcement officers through a security system during all other hours that escorts are working;

(2) The office be managed by the owner or management employee of the owner having authority to bind the service to escort and patron contracts, and adjust patron and consumer complaints;

(3) All telephone lines and numbers listed to the escort service or advertised as escort service numbers terminate at the open office and at no other location;

(4) An index of all employees and escorts be kept in the open office, along with copies of the licenses of those employed to work as escorts or escort service runners, and said index shall be open to inspection at the request of any law enforcement officer who is on official duty;

(5) All business records be kept in the open office, including records of escort calls and referrals, stating the name and driver's license number (or other form of picture identification) of the patron, as well as the state of issuance of the driver's license (or other picture identification). Such records shall also include the date and time of referral, name of the escort who accompanied the patron, whether the referral resulted in a contract, and the total fee received from the patron, if any. The business records described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of the ordinance codified in this chapter nor shall it be considered grounds for suspending, revoking or otherwise taking punitive measures or action against the licensee or the escort service's license. However, in the event of such a refusal, such an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-2501, and amendments thereto;

(6) All of the business records required to be kept and maintained by an escort service licensed under the ordinance codified in this chapter shall be retained by the escort service for a minimum period of one year, and shall be subject to verification on a quarterly basis by the Director of Public safety or his/her duly authorized representative upon request. This quarterly examination of the records shall be permitted solely for the purpose of verifying that such records are being kept, and shall not be for the purpose of gathering information. Refusal by the licensee to allow examination of such records for the sole purpose of verifying that the licensee is in compliance with the record keeping requirements of the ordinance codified in this chapter shall not be deemed to be a criminal violation, however, if the refusal is unreasonable it may result in revocation or suspension of the escort service's license.

(j) "Operator" - is any person operating, maintaining or conducting the business of an escort service.

(k) "Patron" - is a customer or any person who contracts with an escort service for the purpose of hiring an escort, or for monetary consideration contracts with, or hires an escort.

(l) "Person" - is any individual, firm, corporation, partnership, limited partnership, joint venture or association of any kind.

(m) "Service-oriented escort" - is an escort who:

(1) Operates from an open office;

- (2) Does not employ or use an escort service runner;
- (3) Does not advertise that sexual conduct will be provided, or work for an escort service which so advertises; and
- (4) Does not offer, solicit, agree to provide or provide sexual conduct.

(n) "Service-oriented escort service" - is an escort service which:

- (1) Maintains an open office at an established place of business;
- (2) Does not use an escort service runner;
- (3) Does not advertise, order, solicit, agree to provide or provide sexual conduct to a patron; and
- (4) Employs or provides only escorts who are licensed pursuant to this chapter.

(o) "Sexual conduct" - means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, anal copulation, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(p) "Sexual gratification" - is sexual conduct as defined in subsection (o) above.

(q) "Sexual stimulation" - is to excite or arouse the prurient interest of another, or to offer or solicit acts of sexual conduct as defined in subsection (o) above.

(r) "Sexually oriented acts" - are sexual conduct as defined in subsection (o) above.

(s) "Sexually oriented escort" - is an escort who:

- (1) Employs as an employee, agent or independent contractor, an escort service runner;
- (2) Works for, as an agent, employee or independent contractor, or is referred to a patron by a sexually oriented escort service;
- (3) Advertises that sexual conduct will be provided, or as an agent, employee or independent contractor, works for or is referred to a patron by an escort service which so advertises;
- (4) Solicits, offers, agrees to provide or does provide acts of sexual conduct to an escort patron;
- (5) Accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort service.

(t) "Sexually oriented escort service" - is an escort service which:

- (1) Engages in advertising to make the prospective patron believe that acts of sexual conduct or sexual stimulation will be provided;
- (2) Uses as escorts persons known to have violated the laws regarding felonies or crimes of moral turpitude as defined herein;
- (3) Does not maintain an open office;
- (4) Employs as an employee, agent or independent contractor, or uses an escort service runner;
- (5) Advertises that sexual conduct will be provided or that escorts which provide such sexual conduct will be provided, referred to introduced to a patron; or
- (6) Solicits, offers or agrees to provide or does provide acts of sexual conduct to a patron; or

- (7) Employs, contracts with, provides or refers escorts who do not possess escort licenses as required pursuant to this chapter;
- (8) Does not deliver contracts to every patron or customer; or
- (9) Employs, contracts with, refers, or provides to a patron a sexually oriented escort.

(Ord. 1718, Sec. 2; Code 2010)

5-402. LICENSE REQUIRED. It is unlawful within the city limits for any person, whether as principal, officer, agent, servant or employee to conduct, manage, operate, maintain or perform services as an escort service without having first obtained a license to do so as required by this chapter. (Ord. 1718, Sec. 2; Code 2010)

5-403. SEXUALLY ORIENTED ESCORT SERVICES UNLAWFUL. It is unlawful within the city limits for any person, whether as principal, officer, agent, servant or employee to conduct, manage, operate, maintain or perform services as a sexually oriented escort service regardless of license. (Ord. 1718, Sec. 2; Code 2010)

5-404. LICENSE EXCLUSIVE TO PERSON AND PREMISES ISSUED. (a) The license required pursuant to this chapter shall be issued for one premises or one person. The address of the premises for which the license is requested and the name of the person who will be the licensee shall be clearly stated in all applications and renewal requests.

(b) Licenses issued hereunder may not be transferred from one premises to another or from one person to another, and shall be renewable only if the renewal license is to be issued to the same person. Within thirty days after the sale or transfer of any interest in an escort service, any license heretofore issued shall be null and void. A new application shall be made by any person desiring to own or operate the escort service.

(c) No escort service shall be operated under any name or conducted under any designation not specified in the license for that business.

(Ord. 1718, Sec. 2; Code 2010)

5-405. LICENSE FEES. For every escort service there shall be an annual license fee established from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. This fee shall accompany all initial license applications and all renewal requests, and a license shall not be issued until the fee is paid in full. (Ord. 1718, Sec. 2; Code 2010)

5-406. LICENSE RENEWAL. The term of a license issued pursuant to the provisions of this chapter is one year. Any escort service license which has not been suspended or revoked may be renewed for a period of one year on written application to the city clerk\*s office. Such application shall be under oath on a form provided by the city clerk, and shall contain all the information required by Section 5-609, and any amendments thereto.

Application for a license renewal must be made not later than thirty days prior to the date of expiration of the license. (Ord. 1718, Sec. 2; Code 2010)

- 5-407.           APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES. The provisions of this chapter shall be applicable to all businesses participating in the activities described in this chapter, regardless of when established. All existing escort services at the time of the passage of the ordinance codified in this chapter must submit an application for a license within sixty days of the effective date of the ordinance codified in this chapter. (Ord. 1718, Sec. 2; Code 2010)
- 5-408.           DISPLAY OF LICENSE REQUIRED. The license issued pursuant to the requirements of this chapter shall be displayed in a conspicuous public place within the premises licensed as an escort service. (Ord. 1718, Sec. 2; Code 2010)
- 5-409.           APPLICATION FOR ESCORT SERVICE LICENSE. (a) Any person desiring to obtain a license to operate an escort service shall make written application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.
- (b) The application shall be on a form provided by the city. All applicants shall provide the following information under oath:
- (1) The full true name and any other aliases used by the applicant;
  - (2) The present address and telephone number of the residence and business of the applicant;
  - (3) The proposed address and name or names of the escort service for which a license is sought, and the hours that the escort service will be open to the public;
  - (4) The name of the owner of the premises upon which the escort service is to be located;
  - (5) Written proof that the applicant is at least eighteen years of age;
  - (6) All prior criminal convictions excepting minor traffic offenses, and the date and locations of such convictions;
  - (7) Two photographs of the applicant two inches by two inches in size, taken within thirty days immediately preceding the date of application. One photograph will be sent to the director of public safety and one photograph shall be affixed to the license;
  - (8) Fingerprints of the applicant;
  - (9) Information as to whether such individual or business has ever been refused any similar license or permit, or has had any similar license or permit issued to such individual or business in Augusta or elsewhere revoked or suspended, and the reason or reasons therefor; and
  - (10) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying and will comply with them.
- (c) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the state and date of incorporation, the names, residential addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. The corporation applicant shall designate one of its officers to act as its responsible managing officer. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.

(d) If the applicant is a partnership, the application shall set forth the names, residential addresses, and dates of birth of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of subsection (c) of this section pertaining to corporations shall apply. The partnership or limited partnership applicant shall designate one of its partners to act as its responsible managing partner. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.  
(Ord. 1718, Sec. 2; Code 2010)

5-410. LICENSE; ELIGIBILITY REQUIREMENTS. To receive a license to operate an escort service, applicants must meet the following standards:

(a) If the applicant is an individual:

- (1) The required fees must have been paid;
- (2) The application must conform in all respects to the provisions of this chapter;
- (3) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;
- (4) The applicant must be at least eighteen years of age;
- (5) The applicant must not, within five years immediately preceding the date of the filing of the application, have been convicted of or pleaded nolo contendere in any jurisdiction to a felony, or any crime involving moral turpitude as defined in this chapter. The term "conviction" shall include being placed on diversion;

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

(7) The operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws;

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or any other type or organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent of the stock of a corporation.

(2) No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall, in any jurisdiction, have been convicted of, pled nob contendere to, or participated in a diversion program, after having been charged with a felony or any crime involving moral turpitude within the immediate five years preceding the date of the application.

(Ord. 1718, Sec. 2; Code 2010)

5-411. EXAMINATION OF APPLICATION BY CITY COUNCIL. If an application for a license is in proper form and accompanied by the license fee as provided for in Section 5-605, the city council shall, after review and recommendation by the city manager, examine the application. If the applicant is fully qualified pursuant to the

guidelines set forth in this chapter, the city council shall issue a license to the applicant within thirty days from the date of the filing of the application. If the city council fails to act on the application within thirty days after it is filed, it shall be deemed granted. If the city council denies the application within thirty days of the filing of the application, the application is deemed finally denied and the same application may not be made within one year unless there are changed circumstances. If the council denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A. 60-2101(d), and amendments thereto, within thirty days of the denial. If an application is denied by the city council over thirty days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons in Section 5-612 of this code. (Ord. 1718, Sec. 2; Code 2010)

5-412.           SUSPENSION OR REVOCATION OF ESCORT SERVICE LICENSE. (a) Any license issued for the operation of an escort service pursuant to this chapter may be suspended or permanently revoked upon the following grounds:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor, or has otherwise made a material misrepresentation of fact in the application;

(2) The licensee has become ineligible to obtain a license under this chapter;

(3) The licensee, any employee, agent, manager, operator or any other person connected or associated with the license as a partner, director, officer, or stockholder has offered or agreed to or rendered the service of a sexually oriented escort;

(4) The licensee, employee, agent, manager, operator or any other person connected or associated with the license as a partner, director, officer or stockholder has otherwise violated any of the provisions of this chapter;

(5) The nonpayment of any license fees payable hereunder;

(6) The licensee has been convicted, subsequent to the issuance of any license of a crime which is either a felony or a crime involving moral turpitude as defined herein;

(7) For employing a person who has been, within three years prior the date of employment, or who during the period of employment is adjudged guilty of a felony or a crime involving moral turpitude, as defined herein, or within three years prior to employment has been released from probation from a conviction of a felony or a crime involving moral turpitude as defined herein. It is further provided that the term "adjudged guilty" shall include being placed on diversion. It shall be an absolute defense to an alleged violation of this section that the escort employed by the escort service was a licensed escort under the ordinance codified in this chapter;

(8) The licensee is a corporation and is not or is no longer qualified to transact business in the state of Kansas.(b) To revoke a license, the director of public safety, upon five days\* written notice to the licensee, shall have the authority to suspend such license for a period not to exceed thirty days. The cause for such revocation shall be set forth in the notice, and the licensee may appeal such an order of suspension in writing to the city council within seven days from the date of such order.



(c) The city council, upon five days written notice to the licensee, permanently revoke or cause to be suspended such license for any of the reasons enumerated in subsection (a) above. Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, manager, operator or agent, then in the absence of proof of knowledge by the licensee, there shall be no revocation, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any twelve-month period, his or her license may be revoked on the third such violation.

(d) An appeal taken from an order of suspension or revocation shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting for or on his or her behalf for a period of three years.

(e) For the purposes of subsections (b) and (c) above, written notice shall be deemed sufficient upon the mailing of the notice to the most recent address on the application of the licensee on file in the office of the city clerk.  
(Ord. 1718, Sec. 2; Code 2010)

5-413. **COMPLIANCE WITH OTHER REGULATIONS REQUIRED.** No license shall be granted for an escort service until the health code, building code, zoning ordinances, fire prevention and safety regulations of the city are fully complied with, and it is unlawful and a violation of this chapter to maintain or conduct an escort service without being in compliance, at all times, with all health code, building code, zoning ordinance, fire prevention and safety regulations of the city.  
(Ord. 1718, Sec. 2; Code 2010)

5-414. **ESCORT SERVICE DUTIES.** (a) The escort service shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(b) The escort service shall maintain an open office at the licensed location. The address of that office shall be included in all patron contracts and published advertisements. Private rooms or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort service.

(c) The escort service, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including, but not limited to, telephone receptionists and escorts who are referred by that service while the escort is with the patron.

(d) The escort service shall commence business from an open office within thirty days after issuance of the license. In the event an escort service licensee shall not commence business in an open office within thirty days after issuance of a license, or shall discontinue business or close the open office for a period of thirty days after issuance of a license, or shall discontinue business or close the open office for a period of thirty days, such license shall terminate and be revoked automatically without action by the director of public safety or city council.

(e) Every owner, operator, responsible managing employee, manager, or anyone in control of an escort service shall maintain a daily register, approved as to form by the department of public safety, containing the following information:

(1) The identification of all employees employed by such establishment, together with a copy of the escort license for those employees working as escorts;

(2) The hours of employment of each employee for each day; and

(3) The names of all patrons, including their true full names, driver's license number and state of issuance (or some other form of picture identification), hours of employment of the escort service, name of the escort or other employees providing services to this particular patron, the location where escort services were rendered, and the fee charged for such services. The daily register described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of the ordinance codified in this chapter nor shall it be considered grounds for suspending, revoking or otherwise taking punitive measures or action against the licensee or the escort service's license. However, in the event of such a refusal, an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-2501, and amendments thereto. The daily register described in this section shall be kept and maintained at the open office or licensed premises for a period of one year.

(f) Any changes in information required to be submitted by this chapter must be given to the city clerk's office in writing within ten days of any such change.

(Ord. 1718, Sec. 2; Code 2010)

5-415. PROHIBITED ACTIVITIES. (a) It is unlawful for a licensee to provide escort services as described in this chapter to individuals under eighteen years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

(b) It is unlawful within the city limits for an escort service to advertise or hold out to the public the availability of an escort or escort service without obtaining a license therefor as provided in this chapter. Whether the actual business of the escorts or the escort service is performed, the escort service license number must be prominently displayed in such advertisements. (Ord. 1718, Sec. 2; Code 2010)

5-416. ESCORT/ESCORT SERVICE RUNNER; LICENSE REQUIRED. (a) It is unlawful for any person within the city limits to:

(1) Work, perform services, or act as an escort or escort service runner as defined in this article without a license issued pursuant to the provisions of this article;

(2) Work, perform services, or act as an escort or escort service runner unless employed by a licensed escort service;

(3) Work, perform services, or act as a sexually oriented escort, or work as an escort service runner for a sexually oriented escort service, regardless of license.

(b) Such person, when providing services or working as an escort or escort service runner, shall carry the license required by subsection (a)(1) of this section upon their person and display the license upon request of any law enforcement official. Failure to display such license upon demand is a violation of this article punishable as set forth in Section 5-621 of this Article.  
(Ord. 1718, Sec. 2; Code 2010)

5-417. ESCORT/ESCORT SERVICE RUNNER; LICENSE APPLICATION, RENEWAL.

(a) Any person desiring an escort or escort service runner's license shall make written application in duplicate to the city clerk's office on a form provided by the city. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office and shall provide the following information under oath:

- (1) The full true name and any other aliases used by applicant;
- (2) The present residential address and telephone number of applicant;
- (3) Written proof that the applicant is at least eighteen years of age;
- (4) Two photographs, two inches by two inches in size, taken within the last thirty days immediately preceding the date of application. One photograph shall be sent to the chief of police and one photograph shall be affixed to the license;
- (5) All criminal convictions, except for minor traffic offenses, and the dates and places of such convictions;
- (6) Fingerprints of the applicant.

(b) All persons working or providing services as escorts or escort service runners at the time of the passage of the ordinance codified in this chapter must submit an application for an escort or escort service runner's license within thirty days of the date the same becomes effective.

(c) Every escort or escort service runner's license issued pursuant to this chapter will expire one year from the date of issuance and must be renewed before working or performing services as an escort or escort service runner in the following year. Application for renewal must be made to the city clerk no later than thirty days prior to the date of expiration for the escort or escort service runner's license, and must be accompanied by the license fee provided in subsection (c) of this section.

(d) A license to act as an escort or escort service runner does not authorize the operation of an escort service. Any person obtaining a license to act as an escort or escort service runner who desires to operate an escort service must separately apply for a permit therefor. A person who applies for a permit to operate an escort service and who desires to act as an escort or escort service runner within said business, who pays the fee required by Section 5-605 of this chapter, shall not be required to pay the fee required in this section.  
(Ord. 1718, Sec. 2; Code 2010)

5-418. ESCORT/ESCORT SERVICE RUNNER; LICENSE FEES. There shall be an annual fee established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas for an escort or escort service runner's license and such fee shall accompany each application submitted. (Ord. 1718, Sec. 2; Code 2010)

5-419. ESCORT/ESCORT SERVICE RUNNER; LICENSE ELIGIBILITY. (a) A copy of each application for an escort or escort service runner's license shall be forwarded to the director of public safety for investigation of the applicant, It shall be the duty of the director of public safety to investigate such applicant to determine whether he or she is qualified under the provisions of this chapter. The director of public safety shall report to the city clerk not later than ten working days after receipt of the application. The city clerk shall issue or deny the license to work or perform services as an escort or escort service runner based upon the results of the police investigation. Any applicant who has been denied the issuance of an escort or escort service runner's license shall have a right of appeal to the city council, and then pursuant to the provisions of K.S.A. 60-2101(d), and any amendments thereto.

(b) No license to work or perform services as an escort or an escort service runner shall be issued to:

(1) Any person who has not attained eighteen years of age;

(2) Any person who, within three years immediately preceding the date of making application, has been convicted or released from probation or parole for conviction of any crime involving moral turpitude, as defined in this chapter, and the term "conviction," as used herein, includes being placed on diversion;

(3) Any person who has knowingly made a false or misleading statement of a material fact or omission of a material fact in their application for an escort or escort service runner's license.

(Ord. 1718, Sec. 2; Code 2010)

5-420. SUSPENSION OR REVOCATION OF AN ESCORT/ESCORT SERVICE RUNNER'S LICENSE. (a) The director of public safety, upon five days written notice to the person holding an escort or escort service runner's license, shall have the authority to suspend such license for a period not to exceed thirty days, for any of the following reasons:

(1) False information or data was given, or material facts were omitted from the person's application;

(2) The fee required to be paid by this chapter is not paid;

(3) The licensee becomes ineligible to obtain a license;

(4) The licensee is adjudged to have violated the regulations of any of the provisions of this chapter;

(5) Subsequent to obtaining an escort or escort service runner's license, the licensee has been convicted in any jurisdiction of a crime involving moral turpitude, as defined in this chapter, and providing that the term "convicted" shall also include being placed on diversion.

(b) The licensee may appeal such order of suspension to the city council within seven days from the date of such order.

(c) The city council, upon five days\* written notice to the person holding an escort or escort service runner\*s license may permanently revoke or cause to be suspended for a period of not more than thirty days such license for any of the reasons enumerated in subsection (a) of this section.

(d) Any appeal taken from an order of revocation or suspension shall not suspend the order during the pendency of any such appeal. In the case of the revocation of an escort or escort service runner\*s license, no new license shall be issued to such person for a period of three years after the revocation becomes effective.

(e) For the purposes of subsections (a) and (b) of this section, written notice shall be deemed sufficient upon the mailing of the notice to the most recent address on the application of the licensee on file in the office of the city clerk.  
(Ord. 1718, Sec. 2; Code 2010)

5-421.

INVALIDITY OF PART. Should any court declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this chapter. (Ord. 1718, Sec. 2; Code 2010)