

CHAPTER V. BUSINESS REGULATIONS

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ARTICLE 1. GENERAL REGULATIONS AND LICENSES

- 5-101. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, 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 whenever the procuring of the license is required by the city. (Ord. 500; Code 2017)
- 5-102. **APPLICATION FOR LICENSE.** Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, 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. (Ord. 335; Code 1987)
- 5-103. **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 except as specifically provided. (Ord. 335; Code 1987)
- 5-104. **LICENSE PERIOD; DURATION.** Unless otherwise provided, licenses shall commence and endure from November 1 and expire on October 31 of the following year, and all licenses shall expire on the 31st day of October after the same are issued. (Ord. 507; Code 2017)

5-105. EXEMPTION OF FARMERS. 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 shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Ord. 335; Code 1987)

5-106. LICENSE FEES. Unless otherwise provided, the annual license fee for each occupation, business, or profession shall be as shown in the following schedule:

- (a) Cereal Malt Beverage License:
 - (1) Opened case lots..... \$175
 - (2) Unopened case lots..... \$75
- (b) Liquor License \$300
- (c) Private Club \$200
- (d) Vending or Coin Operated Amusement Device (per machine) \$20
- (e) Pool or Billiard Table (per table)..... \$10
- (f) Juke Box..... \$15
- (g) Mobile Home Courts (renewal of),..... \$2
(per mobile home court lot)
- (h) Precious Metal Dealer..... \$30
- (i) Pawn Broker and/or Precious Metal Dealer \$55
- (j) Trash Haulers (per truck) \$15
- (k) Taxi Cab:
 - (1) First Cab..... \$25
 - (2) Each Additional Cab..... \$15
- (l) Food service permits (served on premises and carry out)..... \$30
- (m) Ice Cream Trucks \$15
- (n) Any business, trade, or profession for profit not
enumerated herein \$15

(Ord. 507; Code 2017)

5-107. SAME; WHEN PAYABLE; TIME PERIOD. (a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.

(b) No license shall be issued until the fee is paid.

(c) Licenses shall be renewed on or before the expiration date of the current licenses.

(d) If an existing license is not renewed on or before the expiration date of the current license, the clerk will assess a late fee of \$25 per license. If more than 30 days has elapsed since the expiration of a license and the license holder has not renewed his/her license, the city clerk shall refer the matter to the city attorney for prosecution in Municipal Court.

(e) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.

(f) The license for a day shall expire at midnight.

(Ord. 507; Code 2017)

- 5-108. PAYMENT OF FEES; RECEIPT. The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business.
(Code 1987)
- 5-109. CONTENTS OF LICENSE. Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named. (Code 1987)
- 5-110. RECORD BOOK. The city clerk shall keep a record of the name of each person licensed, his or her address, the date of the license, the purpose in which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed.
(Ord. 335; Code 2017)
- 5-111. DISPLAY OF LICENSE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and 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. (Ord. 335; Code 1987)

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS

5-201. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

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

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

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

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

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

(c) Canvasser or Solicitor - shall mean any individual, whether resident of the city or not, 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 public streets or sidewalks of this city.
(Code 1987)

5-202. 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 2017)

5-203. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;
(b) Permanent home address and full local address of applicant;
(c) Identification of applicant including driver's 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 photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the chief of police and filed with the application;

(j) 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.
(Code 2017)

- 5-204. ISSUANCE; COUNTY RESIDENTS. (a) Except as provided in section 5-209, if the applicant is a current resident of Riley County, Kansas, upon receipt of an application for a license and payment of the license fee, the city clerk shall issue the license. 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 chief of police. The licensee shall carry the license certificate at all times.
- (b) If the applicant is not a current resident of Riley County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-205:206.
(Code 1987)
- 5-205. RESERVED.
- 5-206. RESERVED.
- 5-207. 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 in the amount of \$10 per each day, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$100 be collected from a licensee during any six-month period of time.
- (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 8:00 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 \$10 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 8:00 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; (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 or charitable organization as determined by the governing body.
(K.S.A. 12-1617; Code 1987)
- 5-208. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a six month 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 2017)

- 5-209. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. The city clerk or chief of police 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:
- (a) Fraud, misrepresentation or false statement contained in the application for license.
 - (b) Fraud, misrepresentation or false statement made in the course of carrying on the business.
 - (c) Any violation of this article.
 - (d) 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.
 - (e) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.
- (Code 2017)
- 5-210. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police 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 1987)
- 5-211. 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 2017)
- 5-212. 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 for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public. (Code 1987)

5-213. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, 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. (Code 1987)

ARTICLE 3. MECHANICAL DEVICES

- 5-301. DEFINITION. Amusement device shall mean any machine, device which is coin-operated or otherwise available for hire, which machine or device permits a person or operator to use the device as a game or contest of skill, whether or not registering a score. It shall include, but not be limited to such devices as electronic or mechanical game machines, pool tables, foosball tables, air hockey tables, "pong" games, mechanical rides for children, electronic video games, shooting gallery type games, pinball machines, skill ball, bowling machines, or any other mechanical or electronic games or operations similar thereto. This definition does not include merchandise, vending machines or coin-operated phonographs, televisions or other devices which are not designed for manipulation by the person operating the device. (Ord. 179, Sec. 1; Code 1987)
- 5-302. LICENSE REQUIRED. It shall be unlawful for any person to within the city limits display for public patronage or keep for operation any coin-operated amusement device without first obtaining a license from the city. Not more than one machine or device shall be operated under one license, and a separate license shall be obtained for each and every machine or device displayed or operated. (Ord. 179, Sec. 2, 4; Code 1987)
- 5-303. SAME; FEE. The license fee for each coin-operated amusement device shall be \$20 per year. (Ord. 335, Sec. 3; Code 1987)
- 5-304. SAME; REVOCATION; NOTICE AND HEARING. Every license issued for public patronage for operation of a coin-operated amusement device is subject to the right, which is hereby especially reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any coin-operated amusement or gaming device, contrary to the provisions of any law of this city, or of the State of Kansas or any federal law. Such license may be revoked by the governing body after written notice to the licensee, which notice shall specify the violation of law with which the licensee is charged if, after a hearing the licensee is found to be guilty of such violations. (Ord. 179, Sec. 6; Code 1987)
- 5-305. DISPLAY OF LICENSE. Every license provided by this article shall be maintained permanently at the premises and at the location where the device is to be operated or maintained, and available for inspection by the chief of police upon request. (Ord. 179, Sec. 4; Code 1987)
- 5-306. TRANSFER OF LICENSE. A license issued under this article may be transferred from one machine or device to another similar machine or device upon application to the city clerk to such effect and giving the description and serial number of the new machine or device. (Code 1987)
- 5-307. TERM OF LICENSE. Each license issued under this article shall expire one year from the date of issuance. (Ord. 179, Sec. 3; Code 1987)

ARTICLE 4. TAXICABS

- 5-401. LICENSE REQUIRED. It shall be unlawful for any person, whether acting as owner, principal, agent, employee, lessee, or licensee, to operate or permit to be operated upon the streets of the city any taxicab without having first procured a license therefor from the city. (Ord. 326, Sec. 1; Code 1987)
- 5-402. SAME; AUTHORIZED BY GOVERNING BODY. No person shall engage in the operation of any taxicab nor shall any license be granted or issued to operate the same within the corporate limits of the city until the city council shall first find that public convenience would be promoted and public necessity requires such taxicab service in the city. In determining whether or not a license shall be issued, the city council shall take into consideration systems of transportation already operating, probable congestion of traffic with an additional system of transportation, the question of whether or not the existing systems of transportation are rendering the service required to meet the need of the public and all other facts which are necessary to determine whether or not public convenience and necessity require the operation of additional taxicab service within the corporate limits of the city. (Ord. 326, Sec. 2; Code 1987)
- 5-403. SERVICE HOURS. Each taxicab company or business operating in the city shall be available to transport the public 24 hours every day. (Ord. 326, Sec. 3; Code 1987)
- 5-404. LICENSE FEE. Each taxicab company or business that operates in the city shall pay a license fee of \$25 for the first taxicab operated and an additional fee of \$15 for each and every other taxicab operated in the city. (Ord. 507; Code 2017)
- 5-405. STATE PERMIT REQUIRED. No license shall be granted to any person unless the person applying for a license possesses a valid Kansas Corporation Commission Permit to operate taxicabs and a taxicab service, or is otherwise operating without a Kansas Corporation Commission Permit lawfully pursuant to state law and/or Kansas Corporation Commission Regulations. (Ord. 358; Code 1999)

**ARTICLE 5. MASSAGE ESTABLISHMENTS, BATH HOUSES, AND
MODELING AND BODY PAINTING STUDIOS**

5-501.

DEFINITIONS. Definitions as used in this chapter:

(a) Bath house shall refer to the occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

(b) Body Painting Studios shall refer to the occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.

(c) Employee shall refer to any person, other than masseurs or masseuses, who renders any service to a permittee under this chapter, who receives compensation from the permittee or patron.

(d) Establishment shall refer to 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.

(e) Massage shall refer to any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(f) Masseur or masseuse shall refer to any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(g) Modeling studios shall refer to the occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.

(h) Patron shall refer to any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this chapter and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(i) Recognized school shall refer to any school or institution or learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than 70 hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.
(Code 1987)

5-502. PERMIT REQUIRED. No person, firm, partnership, association or corporation shall operate or be employed by a bath house, massage establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit therefor issued by the governing body. A separate permit shall be required for each and every separate place of business conducted by any one permittee, such permit shall be valid only from January 1st to December 31st of each calendar year. (Ord. 281, Sec.1; Code 1987)

5-503. APPLICATION FOR BUSINESS PERMIT - FEES. Every applicant for a permit to maintain or operate any such establishment or to be employed in such establishment shall file an application with the city clerk. Operators shall pay an annual fee of \$50, and masseurs, masseuses and employees shall pay an annual fee of \$25. No person shall operate, maintain or work as an attendant in any such establishment, unless such person has a valid permit issued by the city.

The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than 10 percent of the stock of the corporation, any partner, when a partnership is involved, and any manager.

The applicant, employee, manager, partner or any stockholder holding more than 10 percent of the stock of applicant corporation shall in addition furnish the following information:

(a) Name, address, telephone number and written proof applicant is at least 18 years of age.

(b) Two portrait photographs, at least two inches by two inches, and fingerprints.

(c) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.

(d) History of person or applicant in such business or businesses, whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity of occupation subsequent to such action of suspension or revocation.

(e) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.

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

(g) The position or function the applicant is being hired to perform within such establishment. (Ord. 281, Sec. 2:3; Code 1987)

5-504. EDUCATION REQUIREMENTS: MASSEUR OR MASSEUSE. (a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the practice of massage as herein defined, shall upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 70 hours of instruction in the theory, method, or practice of massage.

(b) Applicants for a masseur or masseuse permit may substitute one years' continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.
(Code 1987)

5-505. IDENTIFICATION CARDS. All or any employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person, who by law may inspect same. (Code 1987)

5-506. ISSUANCE OF PERMIT. After the filing of an application in the proper form, the governing body shall examine the application and after such examination, shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio or employee permit, unless the governing body finds that:

- (a) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;
- (b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;
- (c) The applicant, if an individual, or any of the stockholders holding more than 10 percent of the stock of the corporation, any of the officers and 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 operation of the business, have been convicted of any crime which would make any person ineligible to receive a permit hereunder, unless such conviction occurred at least five years prior to the date of the application;
- (d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;
- (e) The applicant has had a massage establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application;
- (f) The applicant, if an individual, or any of the officers and 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 operation of the business, is not over the age of 18 years;
- (g) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article; and
- (h) In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this article.

Any permit issued under the provisions of this chapter shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted. (Ord. 281, Sec. 4:5; Code 1987)

5-507.

REVOCAION OR SUSPENSION OF PERMIT. (a) Any permit issued for an employee or for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the governing body after a public hearing before the governing body where it is found that any of the provisions of this article are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in sections 5-503 and 5-505 herein and the permittee has actual or constructive knowledge of the violation or conviction, or in any case, where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the city to inspect the premises or the operations therein.

(b) The governing body, before revoking or suspending any permit, shall give the permittee at least 10 days written notice of the charges against him or her and the opportunity for a public hearing before the governing body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. (Ord. 281, Sec. 6; Code 1987)

5-508.

FACILITIES NECESSARY. No permit to conduct such establishment shall be issued unless an inspection by the health director or his or her authorized representative reveals that the establishment complies with each of the following minimum requirements:

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

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

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

The health director shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance or premises, nor to preclude authorized inspection thereof. (Ord. 281, Sec. 8, 11; Code 1987)

5-509 INSPECTIONS, IMMEDIATE RIGHT OF ENTRY. The police department and health director may from time to time make an inspection of each permitted establishment in this city for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.
(Ord. 281, Sec. 11; Code 1987)

5-510. OPERATION REGULATIONS. The operation of any such establishment shall be subject to the following regulations:

(a) Hours. Such business shall be closed and operations shall cease between the hours of 8 p.m. and 8 a.m. each day.

(b) Separation of sexes. It shall be unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time.

(c) Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the health director to the safety or health of any person, and after such notice in writing to the licensee from such director.

(d) Alcoholic beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises permitted under the provisions of this article.

(e) Conduct of premises. All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of their employees which constitutes a violation of the provisions of this article. Any violation of the city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility for suitability of such person to hold a license or permit may be grounds for suspension or revocation of same.

(f) Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition.

(g) All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(h) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees', masseurs' or masseuses' chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.

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

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

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

(Ord. 281, Sec. 8:11; Code 1987)

- 5-511. SUPERVISION. A permittee shall have the premises supervised at all times when open for business. (Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open.) The permittee shall personally supervise the business, and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.
(Ord. 281, Sec. 12; Code 1987)
- 5-512. EMPLOYEE AND PATRON REGISTRATION. (a) All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department.
(b) Every person who engages in or conducts a permitted establishment shall keep a daily register, approved as to form by the police department, of all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by city health officials and by the police department and shall be kept on file for one year.
(Code 1987)
- 5-513. AGE RESTRICTION. No person shall permit any person under the age of 18 years of age to come or remain on the premises of any permitted business establishment as masseur, employee or patron, unless such person is on the premises on lawful business. (Code 1987)
- 5-514. ADVERTISING. No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 5-501, or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-510, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-501.
(Code 1987)
- 5-515. TRANSFER OF PERMITS; OTHER LICENSES AND FEES. (a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.
(b) Any applications made, fees paid and permits obtained under the provisions of this chapter shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other laws of this city.
(Code 1987)
- 5-516. EXCEPTIONS. The provisions of this article shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction

of any such persons or in any such establishment, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Ord. 281, Sec. 13; Code 1987)

5-517. FURTHER REGULATIONS. The chief of police or the health director may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article. (Code 1987)

5-518. RESTRICTION OF BUSINESS TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such permittee or employee, may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location, and provided further that all such services so rendered shall have received the prior approval of the chief of police or health director or their authorized representative. (Code 1987)

ARTICLE 6. TATTOO REGULATIONS

- 5-601. DEFINITIONS. For purposes of this article, the following words shall have the meaning ascribed to them herein:
- (a) Tattoo shall mean the making of permanent marks or designs on the skin of a human being by puncturing it.
 - (b) Tattoo operator shall mean any person who shall tattoo other persons.
(Ord. 302, Sec. 2; Code 1987)
- 5-602. PERMIT REQUIRED. It shall be unlawful for any person, firm or corporation to tattoo any person in the city without first having been issued a city tattoo permit.
(Ord. 302, Sec. 2; Code 1987)
- 5-603. APPLICATION. Any person desiring to obtain a tattoo or tattoo operator's permit shall make application for such permit to the city clerk. The application shall be verified upon the oath of the applicant, upon a form prepared by the city. The application shall include a current copy of the applicant's license issued by the Kansas State Board of Cosmetology as a permanent color technician or tattoo artist. The cost of the permit shall be \$25, which shall be paid upon application to the city clerk. The city clerk, in his or her discretion, may require the applicant to appear before the city council, before commencement of business and issuance of the permit. Upon approval by the city council, the city clerk shall issue a permit to the applicant, which shall be signed by the city clerk.
(Ord. 646; Code 2017)
- 5-604. ANNUAL PERMIT FEE; OTHER PROVISIONS. (a) Any person, firm or corporation who has applied and has been determined eligible for a permit shall pay an annual renewal fee of \$25 to the city on or before the last day of October of each year. A renewal permit shall not be issued unless the applicant has provided the city with a current copy of their license issued by the Kansas State Board of Cosmetology.
- (b) Section 5-103, 5-104, 5-107 and 5-111 set forth in Article 1 of this Chapter, related licenses, shall be applicable to permits issued under this Article, unless a specific provision in this Article states otherwise.
(Ord. 646; Code 2017)
- 5-605. QUALIFICATIONS. (a) Any person holding a current and valid license as a permanent color technician or tattoo artist issued by the Kansas State Board of Cosmetology shall be eligible to obtain an Ogden city License upon application, payment of the permit fee and presentation of evidence that the person holds the appropriate State license.
- (b) In addition to the personal qualifications specified in subsections (a), a permit shall not be issued to any applicant unless or until the applicant shall have submitted sufficient evidence that the applicant has sterilizing equipment and other equipment for the purpose of preventing and avoiding the spread of infections, communicable, or contagious diseases of any kind. Such equipment shall include but shall not be limited to an autoclave for the purpose of sterilizing all equipment at 15 pounds per square inch steam pressure for at least 20 minutes.
 - (c) Any licensee under this Article shall maintain on file with the city, a current copy of the license issued by the Kansas State Board of Cosmetology. In the event that the licensee does not maintain a current copy of their Kansas State

Board of Cosmetology license on file with the city, then the licensee shall immediately cease and desist providing tattoo services within the city.
(Ord. 646; Code 2017)

ARTICLE 7. MOBILE HOME PARKS

Application of Following Sections

The following sections are not applicable to all mobile home parks established before July 12, 1973 as set out in Annex A herein: 5-822(a) (with a 15 foot clearance for existing mobile home parks); 5-823; 5-824; 5-825; 5-826; 5-835; 5-836 and 5-837.

All other sections in this article are applicable to all mobile home parks regardless of when established.

5-701.

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

(a) Inspector means the city mobile home park inspector, or his or her duly authorized representative.

(b) Driveway means a minor private way used by vehicles and pedestrians on a mobile home lot or used for common access to a small group of lots or facilities.

(c) Health Authority means the City of Ogden or the Riley County Health Department.

(d) License means a written license issued by the city allowing a person to operate and maintain a mobile home park under the provisions of this article and regulations issued hereunder.

(e) Mobile Home means a vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to utilities.

(f) Mobile Home Lot means a parcel of land for the placement of a mobile home for single family occupancy and the exclusive use of its occupants.

(g) Mobile Home Park means a tract of real estate not less than five acres which has been developed, subdivided, planned and improved for the placement of mobile homes but shall not include mobile home sales lots on which unoccupied mobile homes are parked for the sole purpose of display, inspection, sale or storage. Mobile home parks shall also mean all existing mobile home parks as set out in Annex "A" of this article, existing prior to the adoption of this article in the city, containing a tract of real estate consisting of one lot or more in the city, which has been developed, subdivided, planned and improved for the placement of mobile homes, but shall not include mobile home sales lots on which unoccupied mobile homes are parked for the sole purpose of display, inspection, sale or storage.

(h) Mobile Home Stand means that part of an individual lot on which the mobile home unit shall be placed and shall include that area which will be enclosed when skirts are applied below the outside walls of the mobile home.

(i) Park Management means the person who owns or has charge, care or control of the mobile home park.

(j) Park Street means a private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

(k) Permit means a written permit or certification issued by the city permitting the construction, alteration and extension of a mobile home park under the provisions of this article and regulations issued hereunder.

(l) Person means any individual, firm, trust, partnership, public or private associate or corporation.

(m) Planning Commission means the Ogden City Planning Commission.

(n) Service Building means a structure housing facilities as may be required by this article.

(o) Sewer Connection means the connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewage system serving the mobile home park.

(p) Sewer Riser Pipe means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

(q) Skirting means the enclosing of the area between the mobile home and the ground with a material designed to obscure from view the chassis of the mobile home.

(r) Water Connection means the connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

(s) Water Riser Pipe means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

(Ord. 374; Code 1999)

5-702.

CONSTRUCTION PERMIT REQUIRED. (a) It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of the city unless permitted by zoning regulations and unless he or she holds a valid permit issued by the city in the name of such person for the specific construction, alteration or extension proposed.

(b) No permit to construct, alter or extend any mobile home park shall be issued by the city unless and until the city council is satisfied that the construction, alteration or extension shall be in compliance with the plot plan filed with the city planning board at the time the mobile home park was rezoned and the terms of this article. (Ord. 374; Code 1999)

5-703.

SAME; APPLICATION; FEE. All applications for permits shall contain the following information:

(a) Name and address of applicant;

(b) Location and legal description of the mobile home park;

(c) Complete engineering plans and specifications of the proposed park showing but not limited to the following:

(1) The area and dimensions of the tract of land;

(2) The number, location, and size of all mobile home lots;

(3) The location and width of roadways and walkways;

(4) The location of water and sewer lines and riser pipes;

(5) Plans and specifications of the water supply and refuse and sewage disposal facilities;

(6) Plans and specifications of all buildings constructed or to be constructed within the mobile home park;

(7) Location and details of lighting and electrical systems;

(8) Landscaping, screening and recreation area; and

(9) The location of each mobile stand.

(d) All applications for permits shall be accompanied by the payment of a fee of \$2 per mobile home lot.
(Ord. 374; Code 1999)

5-704. MOBILE HOME PARK LICENSE REQUIRED. It shall be unlawful for any person to operate any mobile home park within the city without a valid annual license issued by the city in the name of such person for the specific mobile home park. All applications for licenses shall be made to the city clerk, who shall issue a license upon compliance by the applicant with provisions of this article. No license issued hereunder shall be transferable. (Ord. 374; Code 1999)

5-705. SAME; NOTICE OF SALE. Every person holding a license shall give notice in writing to the city clerk within 24 hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any mobile home park. (Ord. 374; Code 1999)

5-706. SAME; APPLICATION; FEE. Application for original licenses shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by payment of a fee of \$10 per mobile home court location and shall contain:

- (a) Name of the applicant;
- (b) Location and legal description of the mobile home park; and
- (c) Affidavit showing the number of mobile home lots within the park.

(Ord. 426; Code 1999)

5-707. SAME; RENEWAL; RESTRICTIONS. (a) Application for renewal of license shall be made in writing by the holder of the license, shall be accompanied by a payment of \$2 per mobile home lot and shall contain any changes in the information submitted since the original license was issued or the last renewal granted.

(b) No increase in the number of mobile home lots within any existing mobile home park will be granted except that if a permanently plumbed structure serving or having served as a dwelling is removed within the existing mobile home park, the governing body is authorized in its discretion to approve additional lots.

(c) Nothing herein shall permit or be interpreted to allow any physical boundary expansion of any existing mobile home park or allow the use or renting of more mobile home lots in its mobile home park than the number of lots stated in the mobile home park license.

(Ord. 458; Code 1999)

5-708. SAME; LICENSE PERIOD; INSPECTIONS AND PASSAGE REQUIRED. All license fees shall be for the period from December 1st to November 30th of the following year, and are not pro-ratable or transferrable. All licenses shall be purchased before December 1st of the ensuing licensing year. All annual inspections are to be completed by October 31st of each year, and it shall be the responsibility of the park owner or operator to contact the mobile home park inspector to secure the inspection and to accompany the inspector either in person or through a representative during the inspection. Inspections may commence September 1st and shall be completed by October 31st of each year. No mobile home park license shall be renewed in the absence of the successful completion

and passage of the annual inspection conducted by the mobile home park inspector. (Ord. 466; Code 1999)

- 5-709. SAME; APPEAL OF DENIAL. Any person whose application for a license under this article has been denied may request and shall be granted a hearing on the matter before the city council under the procedure provided by section 5-815 of this article. (Ord. 374; Code 1999)
- 5-710. SAME; INSPECTION; SUSPENSION OF LICENSE. Whenever, upon inspection of any mobile home park, the inspector finds that conditions or practices exist which are in violation of any provision of this article, the inspector shall give notice in writing in accordance with section 5-714 to the person to whom the license was issued stating that unless such conditions or practices are corrected within the period of time specified in the notice by the inspector, the license shall be suspended. At the end of such period, the inspector shall re-inspect such mobile home park and, if such conditions or practices have not been corrected, he or she shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of notice of such suspension, the licensee shall cease operation of the mobile home park except as provided in section 5-715. (Ord. 374; Code 1999)
- 5-711. PERIODIC INSPECTIONS. The inspector is hereby authorized and directed to inspect the mobile home units and parks not less than annually to determine satisfactory compliance with this article. (Ord. 374; Code 1999)
- 5-712. INSPECTOR; POWERS; DUTIES. (a) The inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.
(b) The inspector shall have the power to inspect the register containing a record of all residents of the mobile home park.
(c) It shall be the duty of the park management to give the inspector free access to all lots at reasonable times for the purpose of inspection.
(Ord. 374; Code 1999)
- 5-713. OCCUPANT'S DUTY; OWNER'S ACCESS. It shall be the duty of every occupant of a mobile home park to give the owner thereof or his or her agent or employee access to any part of such mobile home park at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this article. (Ord. 374; Code 1999)
- 5-714. NOTICE OF VIOLATION. Whenever the inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, the inspector shall give notice of such alleged violation to the person to whom the permit or license was issued as hereinafter provided. Such notice shall:
(a) Be in writing;
(b) Include a statement of the reasons for its issuance;
(c) Allow a reasonable time for the performance of any act it requires;
(d) Be served upon the owner or his or her agent as the case may require.
The notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his or her

last known address, or when he or she has been served with such notice by any method authorized or required by the laws of this state;

(e) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article. (Ord. 374; Code 1999)

5-715. APPEAL; HEARING; STAY OF ORDER. The owner or tenant affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the city council if such person shall file in the office of the city clerk a written petition requesting a hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under section 5-717. Upon receipt of such petition, the city council shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. (Ord. 374; Code 1999)

5-716. SAME; FAILURE TO COMPLY; REVOCATION OF LICENSE OR PERMIT.

(a) Upon conclusion of the hearing, the city council shall make findings as to compliance with the provisions of this article and shall issue an order in writing sustaining, modifying or withdrawing the notice and such order shall be served as provided in section 5-714(d).

(b) Upon failure to comply with any notice of the inspector or any order of the city council sustaining or modifying the notice, the license or permit of the mobile home park affected by the notice or order shall be revoked and the construction or operation of the mobile home park shall be terminated on the terms and conditions then specified by the inspector or city council as the case may be. (Ord. 374; Code 1999)

5-717. EMERGENCY COMPLIANCE. Whenever the inspector finds that an emergency exists which requires immediate action to protect the public health, the inspector may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but may petition in the manner provided for in sections 5-715:716. (Ord. 374; Code 1999)

5-718. LOT GRADING. All mobile home lots and mobile home spaces shall be properly graded so as to insure rapid drainage and freedom from stagnant pools of water. This requirement is especially emphasized for that area of the space or lot which the mobile home will cover. (Ord. 374; Code 1999)

5-719. SOIL AND GROUND COVER; MAINTENANCE. (a) Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetable growth.

(b) It shall be the responsibility of the licensee or the mobile home park to maintain such areas in a neat and sanitary manner subject to the inspection of the city inspector. (Ord. 374; Code 1999)

- 5-720. SITE DRAINAGE. The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water. (Ord. 374; Code 1999)
- 5-721. AREAS FOR NON-RESIDENT USES. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. (Ord. 374; Code 1999)
- 5-722. SEPARATION AND DENSITY BETWEEN MOBILE HOMES; ACCESSORY STRUCTURES. (a) Mobile homes shall be separated from each other and from other building and accessory structures by at least 20 feet; provided that mobile homes placed end to end may have a clearance of 15 feet where opposing rear walls are staggered. In no instance shall there be more than seven mobile home lots per gross acre on the land remaining after deducting the recreational area, nor shall any mobile home lot be less than 4,000 sq. ft, nor shall a mobile home park be less than five acres including the recreational area.
- (b) An accessory structure such as an awning cabana, storage, carport, windbreak, and porch which is attached or separate, shall be considered to be part of the mobile home.
- (c) No accessory structure shall be permitted except those that are structurally and aesthetically compatible.
(Ord. 374; Code 1999)
- 5-723. RECREATION AREAS. (a) In all parks accommodating or designed to accommodate 25 or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents. The topography of the recreational area shall be suitable for such purposes.
- (b) The size of such recreation areas shall be not less than 8% of the gross site area.
- (c) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.
- (d) Maintenance of the recreational area will be the responsibility of the park management.
(Ord. 374; Code 1999)
- 5-724. SETBACKS, BUFFER STRIPS AND SCREENING. (a) All mobile homes shall be located at least 25 feet from any park property boundary line abutting upon a public street or highway and at least 15 feet from other property boundary lines. Where it is abutting a residential zone, mobile homes must be 25 feet from the property line.
- (b) There shall be a minimum distance of 15 feet between the mobile home and abutting Park Street.
- (c) All mobile home parks shall be provided with screening as set out in this subparagraph such as fences or evergreen vegetation, such screening shall be not less than six feet in height, if fencing is used it shall not exceed a height of eight feet. Screening shall be mandatory on those sides of any mobile home park abutting land zoned industrial or commercial. Screening may be required as to those sides of a mobile home park abutting land zoned non-industrial or non-commercial.
(Ord. 374; Code 1999)

5-725.

STREET SYSTEM; CAR PARKING. (a) General Requirements: All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets, driveways or other means. No individual mobile home shall have direct access to a public street.

(b) Park Entrance: Entrances to mobile home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 25 feet from the property line.

(c) Internal Streets: Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following requirements:

(1) All streets will be a minimum of 30 feet in width measured from back of curb to back of curb;

(2) All streets shall have concrete curb and guttering of a design acceptable to the city; and

(3) Dead end streets shall be limited in length to 1,000 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 60 feet.

(d) Car Parking: Off-street parking areas or on-street parking lanes shall be provided for the use of park occupants and guests. Such areas shall:

(1) Be furnished at a rate of at least two car spaces for each mobile home lot;

(2) Be located within a distance of 200 feet from the mobile home to be served, unless other vehicular access is provided; and

(3) Be of AB3 rock surface or better.

The minimum street width requirement under subsection (c) above shall be increased by seven feet when on-street parking utilized.

(e) Illumination of Park Street System: All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of the park street systems: A minimum of 0.6 foot candle at the source with a minimum of 0.1 foot candle at any point along the street; and

(2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated, with a minimum of 0.3 foot candle.

(f) Street Construction and Design Standards:

(1) Pavements: All streets shall be provided with a smooth, hard and dense surface, such as asphalt or concrete surface, which shall be durable and well drained under normal use and weather conditions. Street surfaces shall be maintained free of cracks, holes and other hazards.

(2) Grades: Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than eight percent. Short runs with a maximum grade of 12 percent may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

(3) Intersections: Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 150 feet shall be maintained

between center lines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided.

(Ord. 374; Code 1999)

5-726. WALKWAYS. (a) Common Walk System: If a parallel or common walk system is provided it shall have a minimum width of three and one-half feet, and be continuous on at least one side, of asphalt or concrete. Sudden changes in alignment and gradient shall be avoided.

(b) Individual Walks: All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two feet.

(Ord. 374; Code 1999)

5-727. MOBILE HOME STANDS. (a) The area of the mobile home stand shall be improved to provide adequate drainage for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

(b) The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home.

(c) Anchors and tie-downs shall be placed near each corner of the mobile home unit on the end of the cross member and at a point of its maximum width. Each tie-down shall be able to sustain a minimum tensile strength of 2,800 pounds. (Ord. 374; Code 1999)

5-728. WATER SUPPLY; GENERAL REQUIREMENTS. City water supply system shall be the source of water for the mobile home park. (Ord. 374; Code 1999)

5-729. SAME; WATER DISTRIBUTION SYSTEM. (a) The water supply shall be capable of supplying a minimum of 250 gallons per day per mobile home.

(b) The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings and other facilities requiring water.

(c) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of a type and in locations approved by the city.

(d) The water piping system shall not be connected with non-potable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage.

(e) The system shall be so designed and maintained as to provide a pressure of not less than 30 pounds per square inch, under normal operating conditions at service buildings and other locations requiring potable water supply.

(Ord. 374; Code 1999)

5-730. SAME; INDIVIDUAL WATER-RISER PIPES AND CONNECTIONS. (a) Individual water riser pipes shall be located within the confined area of the mobile home stand at a point where the water connection will approximate a vertical position.

(b) Water riser pipes shall be installed in a meter box to prevent freezing when a mobile home does not occupy the lot. Such riser pipe shall be equipped with a check or backflow valve and shall be capped when not in use.

(c) Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the mobile home.

(d) Underground stop and waste valves shall not be installed on any water service.

(Ord. 374; Code 1999)

5-731. SEWAGE DISPOSAL; GENERAL REQUIREMENTS. An adequate and safe sewage system shall be designed, constructed and maintained in accordance with state and local laws and shall connect to the city sewage system.
(Ord. 374; Code 1999)

5-732. SAME; SEWER LINES. All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the park water supply system at a safe distance. Sewers shall be at a grade which will insure a velocity of two feet per second when flowing full. All sewer lines shall be constructed of materials approved by the city, shall be adequately vented, and shall have watertight joints. (Ord. 374; Code 1999)

5-733. SAME; INDIVIDUAL SEWER CONNECTIONS. (a) Each mobile home stand shall be provided with at least a four inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position. The riser pipe shall be located within the mobile home stand.

(b) The sewer connection (see definition) shall have a nominal inside diameter of at least three inches, and the slope of any portion thereof shall be at least one-fourth inch per foot. The sewer connection shall consist of one pipe line only with any branch fittings. All joints shall be watertight.

(c) All materials used for sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.

(d) Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four inches above ground elevation.

(Ord. 374; Code 1999)

5-734. UTILITY DISTRIBUTION SYSTEMS. All utilities within the mobile home park shall be underground systems, except the primary electrical lines (electric, telephone, cable TV, etc.), and shall be installed and maintained in accordance with applicable codes and regulations governing such systems within the city.
(Ord. 374; Code 1999)

5-735. SAME; POWER DISTRIBUTION LINES. All direct burial conductors or cable shall be buried at least 18 inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one foot radial distance from water, sewer and gas lines.

(Ord. 374; Code 1999)

- 5-736. SAME; INDIVIDUAL ELECTRICAL CONNECTIONS. (a) Each mobile home lot shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service shall be two 120/240 volts AC, 50 amperes per circuit.
- (b) Outlets (receptacles or pressure connectors) shall be housed in a weatherproof outlet box, and shall be located not more than 25 feet from the over-current protective device in the mobile home. A three-pole, four-wire grounding type shall be used.
- (c) Receptacles, if provided, shall be in accordance with American Standard Outlet Receptacle C-73.1.
- (d) The mobile home shall be connected to the outlet box by an approved type of flexible supply cord with a male attachment plug or with pressure connectors. (Ord. 374; Code 1999)
- 5-737. SAME; REQUIRED GROUNDING. All exposed non-current carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment. (Ord. 374; Code 1999)
- 5-738. REFUSE. (a) The storage, collection and disposal of refuse in the mobile home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
- (b) All refuse shall be stored in fly tight, watertight, rodent proof containers and each mobile home lot shall be provided with individual containers. Containers shall be screened from view.
- (c) All refuse containing garbage shall be collected at least weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers. (Ord. 374; Code 1999)
- 5-739. INSECT AND RODENT CONTROL. (a) It shall be the licensee's responsibility to see that measures are taken to maintain the grounds, building and structures free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Riley County Health Department.
- (b) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
- (c) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.
- (d) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (e) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description. (Ord. 374; Code 1999)

- 5-740. FUEL SUPPLY AND STORAGE; NATURAL GAS SYSTEMS. (a) Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
(b) Each mobile home lot provided with piped gas shall have an automatic shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use. (Ord. 374; Code 1999)
- 5-741. SAME; FUEL OIL SUPPLY SYSTEMS. (a) All fuel oil supply systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
(b) All piping from outside fuel storage tanks or cylinders to mobile homes shall be permanently installed and securely fastened in place.
(c) All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any mobile home or less than five feet from any mobile home exit.
(d) Storage tanks located in areas subject to traffic shall be protected against physical damage.
(Ord. 374; Code 1999)
- 5-742. FIRE PROTECTION. (a) Mobile home parks shall be kept free of litter, rubbish and other flammable materials.
(b) Portable fire extinguishers rated for classes B and C fires shall be kept in service or recreational buildings readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than 2 ½ pounds.
(c) Fires shall be made only in manufactured stoves made for mobile home use.
(d) Fire hydrants shall be installed in accordance with the city regulations.
(Ord. 374; Code 1999)
- 5-743. RESPONSIBILITIES OF PARK MANAGEMENT. (a) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this article and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
(b) The park management shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
(c) The park management shall be responsible for the placement of each mobile home on its mobile home stand which includes securing its stability and installing all utility connections.
(d) The park management shall maintain a register containing the names of all park occupants identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.
(e) Violations of this section are punishable as provided in section 1-116 of this code and by revocation of the mobile home park license.
(Ord. 374; Code 1999)
- 5-744. RESPONSIBILITIES OF PARK OCCUPANTS. (a) Each park occupant shall comply with all applicable requirements of this article and shall maintain his or her

mobile home lot, its facilities and equipment in good repair and in clean and sanitary condition.

(b) Skirting shall be required on all mobile homes with materials harmonious to the color of the home and acceptable to the park management.

(c) An access door not less than two feet by two feet wide and hinged for easy access shall be located within three feet of the fresh water connection.

(d) Porches, awnings, and other additions shall be installed only after a city building permit is obtained. When installed, they shall be maintained in good repair. The space immediately underneath a mobile home shall not be used for storage or as a pet shelter.

(e) The park occupant shall store and dispose of all his or her rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent-proof, insect-proof and water tight and screened from view.

(f) Fire aid fire extinguishers for class B and C fires shall be kept at the premises and maintained in working condition.

(g) Working smoke alarms shall be required in all mobile homes.
(Ord. 374; Code 1999)

5-745. JOINT RESPONSIBILITIES OF PARK MANAGEMENT AND PARK OCCUPANTS.

(a) It shall be the mutual and joint responsibility of both the park management and the park occupant to provide and equip all mobile homes within a mobile home park with adequate and appropriate skirting (see definition, section 5-701).

(b) Adequate and appropriate skirting must be provided to all mobile homes within 30 days of the enactment of Ordinance No. 374. Thereafter, all mobile homes shall be appropriately skirted within 30 days following their location in and/or delivery to a mobile home park.

(c) It shall be the joint mutual responsibility of both the park management and the park occupant to provide an access door of not less than two feet high by two feet wide hinged for easy access located within three feet of the fresh water connection to each mobile home.

(d) The provisions of this section shall be applicable equally, joint, and severally to the park management (see definition in section 5-701) and the park occupants. Enforcement and prosecution of this section may be had against park management and park occupants mutually, dually or singularly, without regard to any contractual provisions between park management and park occupants speaking to the requirements of this section. Both park management and park occupants may be each convicted of a single infraction of the prohibitions as provided for in this section
(Ord. 374; Code 1999)

5-746. MOBILE HOME PARKS. The mobile home parks identified in Annex A are recognized as mobile home parks of the City of Ogden, KS, subject to the regulations set forth in this Article 7 and other applicable regulations of the City. The properties identified in Annex B are no longer recognized as mobile home parks of the City.

ANNEX A. Mobile home parks established before July 12, 1973:

<u>Legal Description</u>	<u>Presently(7-6-2011) Known As:</u>
Block 38, Lots 19 through 23	Ashwood Mobile Home Park #2
Block 49, Lots 7 through 16	Parkview Rentals, LLC #3
Block 53, Lots W5 of 10, 11-32	Parkview Rentals, LLC #4
Block 52, North half of Lot 1, And Lots 2 through 6	Wood Mobile Home Court #2
Block 28, Lots 19 through 30	Parkview Rentals, LLC #2
Block 48, Lots 5 through 10	Wood Mobile Home Court #1
Block 36, Lots 1 through 38; Block 37, Lots 8 through 36; Block 44, Lots 5 through 32; Block 45, Lots 1 through 38; Block 47, Lots 1 through 36	Maplewind Mobile Home Court
Block 34, Lots 9 through 18; Block 34, Lots 21 through 36; Block 35, Lots 18 through 36	Ashwood Mobile Home Park #1
Block 50, Lots 15 through 28	Parkview Rentals LLC #1

ANNEX B. Mobile home parks that were established prior to July 12, 1973, but later abandoned pursuant to the Ogden Zoning Regulations, non-renewal of the Mobile Home Park License, or for some other reason.

Block 52, Lot 7, the north half and east Five feet of Lot 8, the south half of Lots 9 and 10, and the north half of Lots 11 through 15 (Ord. 666; Code 2017)	Howe Trailer Court
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ARTICLE 8. MOBILE HOMES

- 5-801. PLACEMENT OF MOBILE HOMES WITHIN CITY. (a) It shall be unlawful to place any mobile home, as defined in section 5-801 of this code, anywhere within the city without first obtaining a placement permit from the city clerk.
- (1) It is the responsibility of the mobile home owner to obtain a placement permit prior to locating any mobile home within the city.
 - (2) No mobile home park owner shall permit the location or placement of a mobile home within his or her mobile home park in the absence of a valid placement permit issued to the mobile home owner. Mobile home park owners who permit the placement of mobile homes within their park in the absence of a valid placement permit shall be punishable by a fine of \$500 per day for each subject mobile home.
 - (3) The application for the placement permit shall be accompanied by a fee of \$30.
 - (4) Failure to secure a placement permit to place a mobile home, or the placement of a mobile home in any location which has not been authorized under a placement permit issued by the City, is punishable by a fine not to exceed \$50 for each day the violation occurs and/or by the impoundment of the mobile home by the City, with all expenses and charges for the impoundment to be paid by owner of the mobile home. (Ord. 531; Code 2017)
- 5-802. UTILITIES PROHIBITED FROM PROVIDING SERVICES BEFORE POTENTIAL CUSTOMER OBTAINS PERMIT. It shall be unlawful for any individual, partnership, corporation, and/or utility service to provide natural gas or electrical service to any newly placed mobile home prior to the mobile home being inspected by the city and the issuance of a placement permit pursuant to section 5-801 of this code to the applicant and potential customer of such utility services. (Ord. 376; Code 1999)
- 5-803. DEMOLITION OF MOBILE HOME OR MANUFACTURED HOMES.
- (a) It shall be unlawful for any person to destroy, disassemble, or otherwise engage in the demolition and subsequent removal of a mobile home or manufactured home, or any appurtenance, attachment, or addition to a mobile home or manufactured home, without first obtaining a permit from the city clerk and complying with the requirements of this section.
 - (b) Any person desiring to engage in the demolition of a mobile home or a manufactured home shall make application to the city clerk and shall indicate the following:
 - (1) The name of the owner of the mobile home or manufactured home.
 - (2) The name of the owner of the real estate upon which the mobile home or manufactured home is currently situated with a notarized written statement from the real estate owner or mobile home park owner granting permission for the demolition.
 - (3) A description of the mobile home or manufactured home, to include make, model, date of manufacture, dimensions, and color.
 - (4) The date of commencement of demolition.
 - (5) The required date of completion.

(6) The name and address of any contractor(s) who will be performing the demolition if the applicant himself or herself intends not to personally perform the work.

(c) No permit shall be issued by the city clerk without the disclosure of the information as state in subsection (b) above and the posting of a \$500 cash bond in a form approved by the city clerk. Upon completion of the demolition and complete removal of the mobile home or manufactured home, the city building inspector will confirm to the city clerk the completion of the work at which time the city clerk shall return to the applicant the \$500 bond. If such demolition and removal is not completed on time (as stated in the permit and/or application thereof) and in a workmanlike manner, the cash bond will be forfeited into the city's general fund.

(d) No applicant shall receive more than one permit at any given time. No more than one permit shall be issued for the demolition of a mobile home or manufactured home in a mobile home park at any given time.

(e) The demolition of the mobile home or manufactured home and complete removal of its remnants shall be completed within 30 days following the commencement date of the work.

(f) Before the commencement of work, the immediate area surrounding the mobile home or manufactured home to be demolished and removed shall be fenced off in any manner which will indicate work in progress and prevent small children from entering the destruction area.

(g) The area upon which the mobile home or manufactured home had sat shall be left clean and free of all debris, material, liquids, and/or hazardous materials.

(h) There will be no cost for the permit and a "permit issued" sign shall be given to the applicant (upon qualification) and the applicant shall post the applicable site in a manner whereby the sign can easily be seen by street traffic.

(i) A violation of any provisions of this article is a misdemeanor, punishable up to 30 days in jail and/or a \$500 fine.

(j) This article is non-exclusive of any and all other additional remedies and courses of action available to the city through state statute, municipal ordinance, or common law.

(Code 1999)

ARTICLE 9. TRAILER OR TOURIST CAMPS

- 5-901. TRAILER OR TOURIST CAMPS; PERMIT REQUIRED. (a) It shall be unlawful for any person, property owner or lessee to establish or permit to be established on his or her land within the city any temporary housing or trailer camp, tourist camp, or cabin camp without having first obtained a permit from the city clerk showing that proper arrangements have been made for proper sanitation, including safe water supply, adequate sewage, garbage and refusal disposal. The permit shall identify the property owner or lessee, and such owner or lessee shall be held responsible to all health officers having jurisdiction of the property for the maintenance of proper sanitation of all temporary housing established on property under his or her control.
- (b) Any person or persons who shall maintain or permit to be maintained upon his, her or their property or on property under his, her or their control any tourist camp, trailer camp, trailer camp, cabin camp or other temporary housing without first having obtained the permit provided in subsection (a) shall be in violation of this code.
- (c) Whenever any such circumstance, as hereinbefore defined, shall be found to exist on any private property, the city clerk of the city shall have the power and authority to order in writing the owner or occupant thereof at his or her own expense, to remove the same within 24 hours or within such reasonable time as may be fixed by the governing body of the city.
- (d) Each day's continuance of such activity, after the owner or occupant shall have been notified to remove the same, shall be a separate offense.
(Ord. 166, Sec. 1:3; Code 1987)

ARTICLE 10. RENTAL HOUSING

- 5-1001. RENTAL UNITS; LICENSE REQUIRED. (a) It shall be unlawful for any person, firm or corporation to operate any rental units used for human habitation without having first obtained a license or temporary certificate to do so as hereafter provided. A rental unit is a family occupancy, or a sleeping room in a dormitory, boarding house, hotel or motel, or dwelling.
- (b) This article shall not apply to hospitals, nursing homes or other rental units used for human habitation which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations.
- (Code 1987)
- 5-1002. SAME; APPLICATION. Any person desiring a license shall make written application to the city clerk on a form supplied by the city, and containing such information as necessary to administer and enforce the provisions of this article and the housing code in its entirety. (Code 1987)
- 5-1003. SAME; TEMPORARY CERTIFICATE. Upon receipt of a completed application and the appropriate license and inspection fee, the city building official shall issue a "temporary certificate" indicating that a license has been duly applied for. A temporary certificate shall authorize continued occupancy of the dwelling units in actual existence and use, pending the issuance or denial of the applied for license. Structures to be converted to rental usage shall not be occupied for human habitation prior to issuance of a license. (Code 1987)
- 5-1004. SAME; ISSUANCE OF LICENSE; DENIAL; PARTIAL USE. (a) Upon completion of the inspection of the building or buildings, if the building official finds the requirements of the housing code and zoning ordinance have been met, a license certifying such facts shall be issued.
- (b) If the building official finds that the requirements of the housing code or zoning ordinance have not been met, a written denial specifying the defects shall be transmitted to the applicant. When a license has been denied, expired, suspended, or revoked, no further rental and occupancy of dwelling units then vacant or which may become vacant shall be permitted until a license has been issued.
- (c) Units within a structure which are in compliance with the housing code requirements may continue to be occupied if units in other portions of the structure which do not comply, do not create a hazard to the health and safety of the persons in the occupied units. (Code 1987)
- 5-1005. SAME; RENEWAL. Each license shall expire on January 31st of each even numbered year and may be renewed for two-year periods thereafter. (Code 1987)
- 5-1006. SAME; TRANSFER OF LICENSE. A license may be transferred upon payment of a \$2 transfer fee to any person who has acquired ownership of a licensed building for the unexpired portions of the two year term for which it was issued or reissued. The application to transfer such license shall be filed with the building official and the licensed building and dwelling units are in compliance with the housing code. A license shall terminate upon failure to apply for its transfer within 30 days of the date of sale or transfer of ownership of the building.
- (Code 1987)

- 5-1007. SAME; SUSPENSION; REVOCATION. The building official shall give written notice to the license holder and suspend the license for any violations of the housing code. The suspended license may be reinstated upon meeting the requirements of the code. Upon failure of the license holder to correct the violations within 30 days, the license may be revoked. Issuance of a new license after revocation shall be subject to payment of the full amount of the applicable inspection fee. (Code 1987)
- 5-1008. SAME; LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1987)
- 5-1009. SAME; FEES. At the time of application for the license or for license renewal required by this section, the city clerk shall collect the appropriate inspection fee in accordance with the following schedule:
Inspection fee:
1 to 4 units - \$5 per unit
5 to 10 units - \$2 per unit
11 or more units - \$1.50 per unit
Sleeping rooms:
The first unit - \$5
Each additional unit - \$1.50 per unit
A late charge of 10 percent per month shall be added to all inspection fees not paid when due.
No refund of inspection fees shall be made to those discontinuing operation or who sell, transfer, give away, or otherwise dispose of a licensed building to another person. (Code 1987)
- 5-1010. RENTAL HOUSING; PURPOSE. The purpose of sections 5-1010:1017 is to protect the public health, safety and general welfare of the people of the city in non-owner occupied dwellings, including:
(a) To protect the character and stability of residential area;
(b) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings;
(c) To provide minimum standards for cooking, heating, and sanitary equipment necessary to health and safety;
(d) To provide minimum standards for light and ventilation, necessary to health and safety;
(e) To prevent the overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;
(f) To provide minimum standards for the maintenance of existing residential buildings, and to thus prevent slums and blight;
(g) To preserve the value of land and buildings throughout the city.
(Code 1987)
- 5-1011. SAME; SCOPE OF APPLICATION. Every building and premises used in whole or in part as a rented home, residence or as an accessory structure thereof, for a single family, or person, and every building used in whole or in part as a rented home or residence of two or more persons or families living in separate

units, shall conform to the requirements of sections 5-1010:1017 including condominium units and mobile homes that are rented to be occupied by someone other than the owner. (Code 1987)

5-1012. SAME; DEFINITIONS. For purposes of this article, the following terms shall mean:

Approved means complying with all applicable city codes.

Building means a structure erected for the shelter of persons, animals, chattels, or movable property of any kind.

Building inspector means the building inspector of the city and his or her authorized employees.

Dwelling means a building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels or motels.

Dwelling unit means a single residential accommodation which is arranged, designed, used or, if vacant, intended for use exclusively as a domicile for one family. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

Family means any of the following:

(1) A person or persons related by blood, marriage or adoption, together with domestic servants or gratuitous guests, maintaining a common household in a dwelling unit;

(2) Groups of foster care authorized by law, of not more than four wards or clients with their guardian or guardians, together with domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit;

(3) A group of not more than four persons not related by blood, marriage or adoption maintaining a common household in a dwelling unit.

Habitable building means any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without floor covering, ceiling covering, wall finish, required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.

Multiple-family dwelling means a dwelling or portion thereof containing three or more dwelling units.

Occupant means any person including owner or operator living, sleeping, cooking and eating in a dwelling unit.

Operation means the owner or his or her agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means any person, partnership, firm or corporation who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any dwelling or dwelling unit within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual owner shall be bound to comply with the provisions of this ordinance to the same extent as the owner.

Premises means a platted lot or part thereof or un-platted parcel of land, either occupied or unoccupied by any dwelling or non-dwelling structure, including such building, accessory structure or other structure thereon.

Rental or rented dwelling or dwelling unit means a dwelling or dwelling unit let or intended to be let for rent or lease.
(Code 1987)

5-1013. SAME; LICENSE REQUIRED; APPLICATION FEE. (a) It shall be unlawful to rent any building or mobile home to any person for dwelling purposes without obtaining a license and paying the fee required by this section. Such license shall run for the calendar year, and must be renewed each year.

(b) Applications shall be made to the city clerk, on forms supplied by the clerk. Each applicant shall provide the name and address of the applicant. If the applicant is a corporation, the application shall name the principal officers. The applicant shall provide the address and apartment number, if any, of each dwelling unit.

(c) The fee for such license shall be \$10 per dwelling unit per year. The building inspector shall inspect each unit before a license is issued.

(d) If the required license fee has been paid, each dwelling unit to be covered by the license has been inspected and it does not appear that any violation of the code exists, the clerk shall issue the license.

(Code 1987)

5-1014. SAME; BUILDING INSPECTOR; ENFORCEMENT. The building inspector shall enforce the provisions of this article and is thereby authorized to make inspections on a scheduled basis or when reason exists to believe that violation of this article has been or is being committed. (Code 1987)

5-1015. SAME; RIGHT OF ENTRY. The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 1987)

5-1016. SAME; NOTICE OF VIOLATION; FAILURE TO REPAIR. (a) Whenever the building inspector determines that any dwelling, dwelling unit or the premises surrounding any of these fails to meet the requirements set forth in this article, he or she shall issue a notice setting forth the alleged failure and advising the owner, occupant, operator, or agent that such failure must be corrected. This notice shall:

(1) Be in writing;

(2) Set forth the alleged violation;

(3) Describe the dwelling, dwelling unit or other premises where the violations are alleged to exist or to have been committed;

(4) Provide a reasonable time, not to exceed 60 days, for the correction of any alleged violations; and

(5) Be served on the owner, occupant, operator or agent of the dwelling or dwelling unit personally, or by certified mail, addressed to the last known place of residence of the owner, occupant, operator or agent. If upon a diligent effort to locate the owner, occupant, operator or agent, none can be found, notice may be posted on or near the dwelling, dwelling unit, rooming unit, or premises described in the notice.

(b) Whenever an owner, operator or agent of a dwelling or dwelling unit neglects or refuses to make repairs or take other corrective action called for by order or notice of violation issued by the building inspector, the city may undertake such repairs or action, when in its judgment the failure to do so will substantially endanger the public health, safety, or welfare. In the event the owner, operator or agent shall fail to pay the costs of the repairs, the city clerk shall annually certify such unpaid bills to the county clerk as a lien upon the property. The lien shall be collected subject to the same regulations and penalties as other property taxes are collected. (Code 1987)

5-1017.

SAME; APPEAL TO BUILDING INSPECTOR. Any person aggrieved by any decision of any employee of the building inspector may appeal the decision to the building inspector. A written note or letter shall be provided by the person taking the appeal, informing the building inspector of the action taken by the city employee and the change requested from the building inspector. (Code 1987)

ARTICLE 11. VEHICLE SALES AND LOTS

- 5-1101. INTENT. The purpose of the regulations set forth in this Article are to set forth certain standards and regulations pertaining to the use and operation of vehicle sales lots within the City of Ogden, Kansas.
(Ord. 556; Code 2017)
- 5-1102. DEFINITIONS. For the purpose of Article 12, the following words and phrases shall be defined as follows:
- (a) Operator shall mean any person, firm or entity that conducts, pursues controls, manages, or operates a car lot.
 - (b) Vehicle shall mean, without limitation, any automobile, truck, tractor, camper, RV or motorcycle, which as originally built contained an engine, regardless of whether it contains an engine at any other time.
 - (c) Vehicle lot shall mean any parcel of land where either of the following items occur:
 - (1) Vehicle sales; or
 - (2) Vehicles are offered or held out to the public as being for sale; however, the phrase "vehicle lot" shall not include any parcel of land being operated as a licensed and permitted salvage yard.
 - (d) Vehicle sales shall mean the sale of new or used vehicles; the storage of such vehicles; or, the repair or servicing of vehicles, including but not limited to body work, painting, or motor rebuilding.
(Ord. 556; Code 2017)
- 5-1103. PARKING. No owner or operator of a vehicle lot shall park any vehicle closer than 3 feet from any portion of the nearest vehicle.
(Ord. 556; Code 2017)
- 5-1104. OWNERSHIP/TITLE TO VEHICLES. No owner or operator of a vehicle lot shall park any vehicle on a vehicle lot, unless such vehicle is owned by and titled in the name of the person, firm or entity licensed by the City of Ogden to operate the vehicle lot. (Ord. 556; Code 2017)
- 5-1105. INOPERABLE VEHICLES. All owners and operators of vehicle lots shall comply with the provision of Chapter 8, Article 3, of the Code of the City of Ogden, Kansas, relating to junked or abandoned vehicles, except as provided in Section 5-1206. (Ord. 556; Code 2017)
- 5-1106. STORAGE OF VEHICLES BEING REPAIRED. (a) All vehicles stored or parked on a vehicle lot which are being repaired, or which require repair, shall be stored in an area on the vehicle lot which is separate from vehicles which are held out to the public as being for sale.
- (b) Such separate area shall be surrounded by a sight obscuring fence, having a density of not less than 100%, and shall be no less than six feet nor more than eight feet in height. The fence or wall material shall be of a uniform height, texture, material and color. All such fencing shall also comply with all other ordinances of the City, including zoning ordinances.
 - (c) Any vehicle being stored for repair in the fenced area shall not exceed the height of the enclosing wall or fence. All fences required by this section shall be maintained in good and neat condition.

(d) Such vehicles may also be stored within an enclosed building on the vehicle lot. The area on a vehicle lot that is fenced pursuant to the requirements of this section shall not exceed 20% of the total square feet of the vehicle lot. The fence or wall material, design, and placement shall be approved by the Planning Commission prior to its installation. (Ord. 556; Code 2017)

5-1107. SALES OFFICE. Every vehicle lot shall have a permanent structure that shall be used as the vehicle lot's sales office. The sales office shall contain not less than 120 square feet of interior floor space, which is useable as office area, and shall be constructed on a permanent foundation. (Ord. 556; Code 2017)

5-1108. VEHICLE LOT REQUIREMENTS. Any portion of a vehicle lot which is used for the display and/or offering of vehicles to the public shall comply with the following requirements:

(a) The land shall be surfaced as required by Section 16-301 of the Zoning regulations of the City of Ogden, Ks;

(b) The finished grade of the surfaced area shall be no less than 12 inches, nor more than 36 inches above the grade of the street adjoining the vehicle lot;

(c) All areas shall be kept neat and clean.

(d) No part of any motor vehicle shall be permitted to encroach on any public area, including sidewalks, streets or other public rights-of-way.

(Ord. 556; Code 2017)

5-1109. INGRESS/EGGRESS. Every vehicle lot shall have an entrance, or entrances, which are capable of providing adequate simultaneous ingress and egress for vehicular travel. (Ord. 556; Code 2017)

5-1110. BUYER'S GUIDE. All vehicles parked or displayed on the vehicle lot shall have a "Buyer's Guide" affixed to the vehicle as required by Federal regulations. (Ord. 556; Code 2017)

5-1111. GROSS VEHICLE WEIGHT. No vehicle with a gross vehicle weight greater than 24,000 lbs. shall be offered or displayed for sale on a vehicle lot. (Ord. 556; Code 2017)

5-1112. INSURANCE. All vehicles offered or displayed for sale on a vehicle lot shall be insured with liability insurance in an amount not less than \$10,000 per person and \$20,000 per accident, and property damage insurance in an amount not less than \$5,000. (Ord. 556; Code 2017)

5-1113. MECHANICAL WORK. No person shall perform any mechanical or repair work on any vehicle, on a sales lot, unless such work is conducted within a fully enclosed building. Battery chargers are permitted in open, unenclosed areas on the vehicle lot. (Ord. 556; Code 2017)

5-1114. VEHICLE DEALER'S LICENSE. (a) No person, firm or corporations shall sell, offer for sale or engage in the sale of vehicles within the City of Ogden, Kansas, without a Vehicle Dealers License issued by the City. The City Clerk is hereby authorized to issue a license upon submission by the applicant of a written application on forms to be provided by the City Clerk, and upon compliance by the applicant with the following requirements:

(1) The application shall be accompanied by detailed plans, including site plan, showing the layout of land to be used, the portion thereof to be improved as required herein, the method proposed for improvements, drainage of the lot, driveways for ingress and egress, and the sales building or other existing or planned buildings to be used in the operation of the vehicle lot.

(2) The applicant shall furnish evidence that they possess a valid State of Kansas vehicle dealer's license;

(3) Payment of the annual license fee of \$100.00.

(b) All such plans shall be submitted to the Planning Commission for approval and submission to the Governing Body. A license shall not be issued without approval of the Governing Body.

(c) All licenses issued under this Article shall be valid for a period of one year and shall expire at midnight on October 31st of each year, unless earlier revoked. The city clerk is hereby authorized to issue a renewal license upon expiration of a license, upon written application in the same manner required for the initial license. No license issued under this Article shall be transferable.

(d) Any license issued under this Article shall be automatically revoked upon termination, suspension, revocation or the failure to renew the Operator's State of Kansas vehicle dealer's license, or upon proof by competent legal evidence that the licensee made a false statement in any application for a license under this Article. Any license issued hereunder may be revoked by the Governing Body of the City, upon proof of conviction of the licensee for a violation of this ordinance.

(e) Any owner, operator or licensee of a vehicle lot shall allow entry upon the premises by a city official for the purpose of conducting inspections to determine compliance with the requirements of the ordinances of the City of Ogden.

(f) Whenever a license is granted pursuant to this Section, the licensee shall be exempt from the obligation of obtaining a business license as required by Section 5-101 of the City Code, however, the licensee shall be required to comply with all obligations set forth in Article 1 of Chapter 5 of the City Code that are not inconsistent with this Section. (Ord. 573; Code 2017)

ARTICLE 12. REGULATION OF ADULT BUSINESSES

5-1201.

DEFINITIONS. The following words and phrases, when used in this Article, shall have the following meanings:

(a) Adult Arcade shall mean any place to which the public is permitted or invited where, for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images displayed are characterized by the depiction or description of Nudity or Specified Sexual Activities.

(b) Adult Business shall mean

(1) Any establishment that meets any one or more of the following criteria:

(A) Adult Materials are 25% or more of the total inventory of the business;

(B) Adult Materials are 25% or more of the dollar value of the total inventory of the business;

(C) Adult Materials are 25% or more of the total sales, rentals, or exchanges;

(D) Adult Materials are displayed on 25% or more of the total sales floor area;

(E) The establishment advertises Adult Entertainment, Adult Materials or Adult Services on on-site or off-site signs; in the newspaper, magazines or other print media; on the radio, television, Internet or other similar media; or through any other media.

(F) The establishment does not physically and visually separate Adult Entertainment, Adult Materials or Adult Services from other business purposes; nor provides controlled access to a room featuring Adult Entertainment, Adult Materials or Adult Services.

(G) A reasonable person would identify the establishment as an Adult Business.

(2) Any establishment that is an adult arcade, adult cabaret, adult motel, adult movie theatre, nude model studio, or sexual encounter center.

(c) Adult Cabaret shall mean any place that regularly features Adult Entertainment, including, but not limited to nightclubs, restaurants, private clubs, theatres, concert halls and auditoriums.

(d) Adult Entertainment shall mean any live exhibition, performance, display or dance of any type, including but not limited to talking; singing; reading; listening; posing; pantomiming; modeling; removal of clothing; or any service offered for amusement on a premises in which the exhibition, performance, display or dance is characterized by the depiction or description of Nudity or Specified Sexual Activities.

(e) Adult Materials shall mean media or merchandise for use in connection with Specified Sexual Activities, or that is characterized by the depiction or description of Nudity or Specified Sexual Activities. Adult Materials includes, but is not limited to books, magazines, periodicals or other printed matter; photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations; and instruments, devices or other paraphernalia.

(f) Adult Motel shall mean a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Nudity or Specified Sexual Activities; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions.

(g) Adult Movie Theatre shall mean any place that, for any form of consideration, regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions characterized by the depiction or description of Nudity or Specified Sexual Activities.

(h) Adult Services shall mean services that are intended to provide or facilitate the sexual arousal or excitement or that allow observation of a Nude person or Specified Sexual Activities ancillary to other pursuits, or allow participation in Specified Sexual Activities ancillary to other pursuits.

(i) Application Date shall mean the date the city clerk receives a completed license application, accompanied by the appropriate fee.

(j) Employee shall mean any person, including but not limited to security guards, door bouncers, and wait staff, who work in or at, or render any services directly related to the operation of an Adult Business.

(k) Entertainer shall mean any person who provides Adult Entertainment within an Adult Business, whether or not a fee is charged or accepted for the Adult Entertainment.

(l) Manager shall mean an on-site supervisor working on behalf of an Adult Business. A licensed Owner is a Manager when the licensed Owner is on the premises, even if the licensed Owner has not obtained a Manager's license pursuant to Section 5-1308(b).

(m) Minor shall mean any person under eighteen (18) years of age.

(n) Nude/Nudity shall mean less than completely or opaquely covering and exposing to view:

(1) Human male or female genitals; or,

(2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs or any other clothing that does not completely or opaquely cover the anal cleft or cleavage of the male or female buttocks; or,

(3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed; or,

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

(o) Nude Model Studio shall mean any place where a Nude person is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons. Nude Model Studio shall not include a college, community college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely or partly by taxation; or in a structure:

(1) that has no sign visible from the exterior of the structure and no other advertising that indicates that a person will be Nude,
(2) where in order to participate in a class a student must enroll at least three days in advance of the class; and
(3) where no more than one Nude person is on the premises at any one time.

(p) Owner shall mean any person who owns an Adult Business, including a sole proprietor, all partners in the case of a partnership or any stockholder or member with more than a 25% interest in the organization in the case of a corporation or company.

(q) Patron shall mean any person on the premises of an Adult Business who is not an Employee, Entertainer, Manager or Owner of the Adult Business, regardless of whether the person pays any compensation to the Adult Business, Employee or Entertainer for any services, merchandise or Adult Entertainment. Patron shall not include a person who enters an Adult Business for the sole purpose of inspecting the premises or providing a good or service to the Adult Business and who does not remain in the Adult Business after the purpose has been accomplished.

(r) Premises shall mean the structure, or a portion of a structure, in which the Adult Business is conducted, including restrooms, dressing rooms and kitchens, but not including any open space on the property or on adjoining property used in conjunction with the Adult Business, such as parking areas or common areas. If the Adult Business operates in a structure, which is designed, and intended to house only one business, the premises shall be the entire structure. If the Adult Business operates within a structure that is designed, or intended, to house more than one business, the premises shall be the area within the exterior walls of such a structure that is devoted solely to the Adult Business.

(s) Sexual Encounter Center shall mean any place that offers, for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex; or, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of Nudity.

(t) Specified Anatomical Areas shall mean the human genitals, pubic region, buttocks, or female breast.

(u) Specified Criminal Act shall mean any unlawful lewd or indecent conduct, specifically including, but not limited to, any of the following lewd or indecent criminal acts:

- (1) Any sex offense set forth in Chapter 21, Article 55, of the Kansas Statutes Annotated, as amended;
- (2) Any crime set forth in the Kansas Uniform Controlled Substances Act, Chapter 65, Article 41, of the Kansas Statutes Annotated, as amended;
- (3) Incest (K.S.A. 21-5604, as amended);
- (4) Aggravated incest (K.S.A. 21-5604, as amended);
- (5) Furnishing alcoholic liquor or cereal malt beverage to a Minor (K.S.A. 21-5607, as amended);
- (6) Furnishing alcoholic beverages to a minor for illicit purposes (K.S.A. 21-5607, as amended);
- (7) Promoting obscenity (K.S.A. 21-6401, as amended);
- (8) Promoting obscenity to minors (K.S.A. 21-6401, as amended);
- (9) Any Kansas municipal ordinance violation based upon any of the crimes set forth in subparagraphs "1" through "8," inclusive;

(10) Any criminal violations from a state other than Kansas, or municipal ordinance from a state other than Kansas, corresponding to the crimes set forth above in subparagraphs "1" through "8," inclusive.

(v) Specified Sexual Activities shall mean any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in (1) through (2) above.

(Ord. 643; Code 2017)

5-1202. APPLICABILITY. The provisions of this article shall apply to all Adult Businesses existing on the effective date of Ordinance No. 643, as well as to all Adult Businesses established after the effective date of Ordinance No. 643. (Ord. 643; Code 2017)

5-1203. LICENSE REQUIRED FOR ADULT BUSINESSES. (a) It shall be unlawful for any person to operate or maintain an Adult Business within the city without a valid, current Adult Business license.

(b) It shall be unlawful for any person to operate an Adult Business at any location, aside from the anywhere but on the premises specified by the Adult Business license.

(c) It shall be unlawful for any Employee, Entertainer, Manager or Owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed Adult Business within the city.

(d) The failure to post an Adult Business license in the manner required in this Article shall be prima facie evidence that an Adult Business has not obtained such a license. It shall also be prima facie evidence that any Employee, Entertainer, Manager or Owner who performs any business, service or entertainment in an Adult Business had knowledge that the business was not licensed. (Ord. 643; Code 2017)

5-1204. SAME; LICENSE REQUIRED FOR EMPLOYEES, ENTERTAINERS AND MANAGERS. It shall be unlawful for any person to work as an Employee, Entertainer or Manager in or at an Adult Business, or to render any services directly related to the operation of an Adult Business, without a valid, current license. (Ord. 643; Code 2017)

5-1205. LICENSE FEES. (a) License fees are non-refundable.

(b) The license fee for all licenses required by this article shall be as prescribed in this Code. (Ord. 643; Code 2017)

5-1206. LICENSE LIMITATIONS. (a) All licenses shall be issued for only one specific premises, and it shall be unlawful for any person to operate an Adult Business anywhere but at the designated licensed premises.

(b) All licenses shall be non-transferable and non-assignable.

(c) All licenses shall be issued only for the one use specified on the license application. A separate license is required for each use. The license is invalidated if the type of use is changed, and the licensee must obtain a new license for the change in use.

5-1207. LICENSE DISPLAY. (a) The person holding the Adult Business license shall post the license in a conspicuous place and manner within the premises.

(b) Each Employee, Entertainer and Manager shall post his or her license in his or her work area within the premises so it shall be readily available for inspection by City authorities. (Ord. 643; Code 2017)

5-1208. LICENSE APPLICATION INFORMATION. (a) Adult Business License. To obtain a license to operate an Adult Business within the city, the applicant shall complete the form supplied by the city clerk and file the application with the city clerk. The application shall require all the following information:

(1) The applicant must provide the following information. If the applicant is a partnership, each partner must provide the following information. If the applicant is a corporation or limited liability company, each stockholder or member who owns more than a 25% interest in the corporation or company also must provide the following information.

(A) Name, including any aliases, mailing address for receipt of notices, home telephone number, occupation, date and place of birth and social security number. An applicant, partner, stockholder or member who is not a resident of Riley County must provide the name and address of a Riley County resident to receive service of process on his or her behalf.

(B) A statement signed under oath indicating whether the individual has been convicted of, released from confinement for conviction of, or diverted from prosecution on, any felony or Specified Criminal Act within the three (3) years immediately preceding the Application Date. The three (3) years begins from the most recent of the above events.

(C) A statement signed under oath indicating whether the individual previously had an Adult Business license of any type revoked or suspended, in this or another city, county or state; and if so, the reason for the revocation or suspension and the business activity subjected to the revocation or suspension.

(2) The tax identification number and name of the registered agent if the Owner is required to have a tax identification number or registered agent.

(3) The location of the proposed premises, a description of the area that constitutes the premises and the name of the owner of the premises.

(4) The name of the Adult Business and a description of the type of Adult Business to be performed on the premises.

(5) If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State. If the applicant is a foreign corporation, a certified copy of the registration as a foreign corporation.

(6) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article.

(b) Employee, Entertainer, and Manager License. To obtain a license to be an Employee, Entertainer or Manager at an Adult Business, the person proposing to be an Employee, Entertainer or Manager shall complete the form supplied by the city clerk and file the application with the city clerk. The application shall require all the following information:

(1) The applicant's name, including any aliases, mailing address for receipt of notices, home telephone number, date and place of birth, social security

number, and in the case of Entertainers, any stage names or nicknames used in entertaining.

(2) The name and address of each Adult Business where the applicant intends to work as an Employee, Entertainer or Manager.

(3) A statement signed under oath indicating whether the applicant has been convicted of, released from confinement for conviction of, or diverted from prosecution on, any felony or Specified Criminal Act within the three (3) years immediately preceding the Application Date. The three (3) years begins from the most recent of the above events.

(4) A statement signed under oath indicating whether the applicant previously had an Adult Business license of any type revoked or suspended, in this or another city, county or state; and if so, the reason for the revocation or suspension and the activity subjected to the revocation or suspension.

(5) The applicant shall submit documentation to the city clerk that proves that the applicant has attained the age of 18 years of age by the Application Date. The city clerk shall copy the documentation, which may include any of the following:

(A) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;

(B) A state-issued identification card bearing the applicant's photograph and date of birth;

(C) An official and valid passport issued by the United States of America;

(D) An immigration card issued by the United States of America;

(E) Any other form of picture identification issued by a governmental entity that is deemed reliable by the city clerk; or

(F) Any other form of identification deemed reliable by the city clerk. (Ord. 643; Code 2017)

5-1209. SAME; APPLICATION PROCESSING. (a) The city shall not process an incomplete license application. If the application is incomplete, the city clerk shall provide the applicant with a written explanation of the reason(s) why the application is incomplete, within five (5) working days of the date the city clerk received the application.

(b) Upon receipt of a complete application for any license, the city clerk shall immediately transmit copies of the application to the Riley County Police Department. The Police Department shall investigate the application to determine whether the information contained in the application is accurate and whether the application meets the requirements for issuance of the license for which the application is made. The Police Department shall report the results of the investigation to the city clerk not later than ten (10) working days from the Application Date. The City shall determine whether the premises where the Adult Business will be conducted complies with the applicable zoning and building code ordinances. (Ord. 643; Code 2017)

5-1210. SAME; EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DENIAL.

(a) If the license application is complete, in proper form and accompanied by the appropriate fee, the city clerk shall issue the license as provided by law, provided that the applicant and the Adult Business meet the requirements of

Section 5-1211. The city clerk shall either approve or deny the complete application within twenty (20) working days from the Application Date. Failure to approve or disapprove within the twenty (20) working days shall not mean approval if a valid reason exists for not making the determination in a timely manner. All incomplete applications shall be denied.

(b) If an application for a license is approved, the issued license shall state the calendar year, premises and use for which it issued, and that the license is nontransferable.

(c) If an application for a license is denied, the applicant shall be notified by registered or certified mail to the address on the application, and the letter of notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Municipal Court of the City of Ogden, by filing a notice of appeal with the clerk of the municipal court within twenty (20) working days of date of the letter of notification. (Ord. 643; Code 2017)

5-1211. LICENSE DISQUALIFICATION. (a) No license to operate an Adult Business shall be issued to the following:

(1) A person who is a Minor;

(2) A person who failed to supply all information requested on the application;

(3) A person who gave materially false, fraudulent or untruthful information on the application;

(4) A person who is not a citizen of the United States;

(5) A person who has been convicted, released from incarceration for conviction or diverted on any felony or Specified Criminal Act during the three (3) years immediately preceding the date of application approval, beginning from the most recent of the aforementioned events;

(6) A person who has had an Adult Business license or comparable license revoked or suspended in this or any other city within the five (5) years immediately preceding the Application Date;

(7) A partnership, unless all members of the partnership are otherwise qualified to obtain a license; or,

(8) A corporation, unless all officers or directors are otherwise qualified to obtain a license.

(b) No license shall be issued for an Adult Business if the proposed premises do not comply with the requirements of Section 5-1217(a) of this Article; provided that upon a showing that the premises meets such requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the city clerk.

(c) No license for an Employee, Entertainer or Manager shall be issued to the following:

(1) A person who has not been a resident of Riley County for at least six months prior to filing the application;

(2) A person who is a Minor;

(3) A person who failed to provide all of the information required on the application;

(4) A person who gave materially false, fraudulent or untruthful information on the application;

(5) A person who has been convicted, released from incarceration for conviction or diverted on any felony or Specified Criminal Act during the three

(3) years immediately preceding the Application Date, beginning from the most recent of the aforementioned events; or,

(6) A person who has had an Employee, Entertainer or Manager license, or its equivalent, revoked or suspended in this or any other city during the five (5) years immediately preceding the Application Date.
(Ord. 643; Code 2017)

5-1212. LICENSE SUSPENSION, REVOCATION OR NONRENEWAL. The city clerk may permanently revoke, or suspend a license, after providing five (5) working days written notice to a licensee, for any of the following reasons:

(a) The licensee obtained the license through false statements in the application for the license, or for renewal thereof;

(b) The licensee failed to make a complete disclosure of all information in the application for the license, or for renewal thereof;

(c) The licensed Employee, Entertainer or Manager licensee is no longer a resident of Riley County;

(d) The licensee has become disqualified from having a license by conviction or diversion of a Specified Criminal Act.

(e) The licensee has an equivalent Adult Business license from this or any other city revoked or suspended.

(f) The licensee has violated, or allowed or permitted the violation of, any of the provisions of this article or an city code relating to Adult Businesses or the premises;

(g) There have been recurrent violations of provisions of this article, or any city code relating to Adult Businesses or the premises, that have occurred under such circumstances that the Owner of the Adult Business knew or should have known that such violations were committed. (Ord. 643; Code 2017)

5-1213. STANDARDS OF CONDUCT. (a) Identification cards required.

(1) It shall be unlawful for any licensed Employee, Entertainer or Manager to fail to have in their possession, at all times when working in an Adult Business, a valid identification card issued by the city, bearing the license number, the licensee's physical description and a photograph of the licensee.

(2) It shall be unlawful for any person to alter the city-issued identification card.

(b) Age restriction. No Minor shall be permitted on the premises of an Adult Business.

(1) It shall be unlawful for any Owner, Manager or Employee to allow or permit any Minor to be in or upon the premises of an Adult Business.

(2) The Manager or Manager's representative shall verify the age of each person with one valid form of the documentation listed in Section 5-1308(b)(5)(a-d). The Manager shall be held responsible for the failure to verify the age of the person.

(c) Hours of operation. It shall be unlawful for an Adult Business to be open or in use between the hours of 2:00 a.m. and 10:00 a.m. on any day Monday through Saturday. It shall be unlawful for an Adult Business to be open between the hours of 2:00 a.m. and 12:00 noon on Sunday. The Manager and/or Owner shall be held responsible for a violation of this subsection.

(d) Nudity prohibited. It shall be unlawful for any person to be Nude on the premises of an Adult Business.

(e) Sale or consumption of alcohol prohibited.

(1) It shall be unlawful for any person to sell or consume alcoholic liquor or cereal malt beverages on the premises of an Adult Business.

(2) It shall be unlawful for any Owner or Manager to knowingly allow or permit alcoholic liquor or cereal malt beverages to be brought, sold or consumed upon the premises.

(f) Specified Sexual Activities Prohibited.

(1) It shall be unlawful for an person to engage in any Specified Sexual Activity on the premises of an Adult Business.

(2) It shall be unlawful for any person to wear or use any device that simulates any Specified Anatomical Area or to use artificial devices or inanimate objects to simulate or depict any Specified Sexual Activity while on the premises of an Adult Business.

(3) It shall be unlawful for any Owner or Manager to knowingly allow or permit any person to engage in any Specified Criminal Act or any Specified Sexual Activity on the premises.

(g) Physical Contact Prohibited.

(1) It shall be unlawful for any person to touch, fondle or caress any Specified Anatomical Area of any person on the premises of an Adult Business

(2) It shall be unlawful for any person to permit a second person to touch, fondle or caress the first person's Specified Anatomical Areas on the premises of an Adult Business.

(3) It shall be unlawful for any person to have any physical contact with an Entertainer, including an Entertainer having physical contact with another Entertainer, during the provision of Adult Entertainment.

(4) It shall be unlawful for a Manager to knowingly permit any person to have any physical contact with an Entertainer, including permitting an Entertainer to have physical contact with another Entertainer.

(h) Adult Entertainment Limited to the Stage.

(1) It shall be unlawful for any Entertainer to provide Adult Entertainment anywhere but upon the stage as required by Section 5-1217(a).

(2) It shall be unlawful for any Manager to permit any Entertainer to provide Adult Entertainment anywhere but upon the stage as required by Section 5-1218(a).

(3) It shall be unlawful for a Patron to cross the stage boundaries set forth in Section 5-1218(a) while an Entertainer is providing Adult Entertainment.

(4) It shall be unlawful for a Manager to knowingly permit a Patron to cross the stage boundaries set forth in Section 5-1217(a) while the Entertainer is engaged in a performance of Adult Entertainment.

(i) Restrictions on Payment of Gratuity.

(1) It shall be unlawful for an Entertainer to solicit, demand or receive any payment or gratuity from any Patron while on the premises of an Adult Business, except as provided in subsection (2).

(2) An Entertainer shall only receive payment or gratuity for the provision of Adult Entertainment in the following manner:

(A) While such Entertainer is on the stage, a Patron may place such payment for gratuity into a container provided by the Adult Business for the receipt of gratuities located outside the six-foot boundary surrounding the stage; or

(B) While such Entertainer is not on the stage but while on the premises of an Adult Business and is clothed, a Patron may place such payment or gratuity into the Entertainer's hand.

(j) Responsibility of Manager and Owner. It is unlawful for the Manager or Owner of an Adult Business to violate any provision of this Article or of city or state law, or to permit or allow any person to violate any provision of this Article or of city or state law, while on the premises of the Adult Business.
(Ord. 643; Code 2017)

5-1214. MANAGER ON PREMISES. (a) A Manager shall be on duty at the Adult Business at all times the premises are open for business. The name of the Manager on duty shall be prominently posted.

(b) A Manager shall verify that any person working as an Employee or Entertainer possesses a current and valid license and that such license is prominently posted. (Ord. 643; Code 2017)

5-1215. CONDITIONS OF LICENSURE. (a) It shall be a condition of the issuance of each license, that any officer or agent of any department charged with the enforcement of this article or any other city code shall have the right of immediate entry and inspection of any premises subject to the control of the Adult Business licensee, at any time. The application for and acceptance of an Adult Business license shall conclusively be consent of the applicant and licensee to immediate entry and inspection of the licensed premises. Such consent shall not be revocable during the term of the license. Refusal of entry and inspection shall be grounds for license revocation.

(b) It shall be a condition of the issuance of each license that the licensee has submitted to the jurisdiction of the City of Ogden Municipal Court for the prosecution for any violation relating to the operation of or employment at the Adult Business. (Ord. 643; Code 2017)

5-1216. SIGN REQUIREMENTS. (a) Interior Signage. All Adult Businesses that provide live Adult Entertainment shall conspicuously display, in the common area at the principal entrance to the premises, a sign, with uppercase letters at least two (2) inches high and lowercase letters at least one (1) inch high, that reads as follows:

THIS ADULT BUSINESS IS LICENSED AND REGULATED
BY THE CITY OF OGDEN
YOU MUST BE 18 YEARS OLD TO ENTER
Standards of Conduct for the Premises:

1. No alcohol.
2. No nudity.
3. No person (including another entertainer) may have any physical contact with an entertainer while performing.
4. No person may touch any person's genitals, pubic region, buttocks or female breast at any time.
5. No sexual acts, sexual conduct, prostitution or solicitation of prostitution.

6. Entertainers may only perform in the stage area.

7. No patron may enter the stage area.

8. A patron may only tip an entertainer by 1) placing a tip in a container located outside the stage area during an entertainer's performance, or 2) placing a tip in a clothed entertainer's hand after a performance.

(b) Exterior Signage.

(1) An Adult Business shall have no signs on the premises or the property on which the premises are located, except as provided in subsections (2) and (3). Any permitted sign must meet the requirements of this section and the Ogden Zoning Regulations. In the event of a conflict between this section and the Ogden Zoning Regulations, the Adult Business shall comply with the more restrictive provision.

(2) An Adult Business may have one wall sign on the exterior of the premises, consisting of internally lit, individually wall-mounted letters, indicating only the name of the Adult Business. The gross surface area of the wall sign shall not exceed twenty (20) square feet.

(3) An Adult Business may have one sign located on the entrance to the premises, either on or beside the door, indicating only the name of the Adult Business and the hours of operation. This sign shall be non-illuminated. The gross surface area of the sign shall not exceed two (2) square feet.

(4) No sign or exterior surface of the Adult Business premises, including windows and doors, shall include descriptive art, graphics, lighting or designs depicting or referring to a Nude person or Specified Sexual Activities.

(5) No Adult Business shall permit temporary sales aids, portable signs, exterior or interior window displays, prohibited signs or banners signs, as defined in the Ogden Zoning Regulations,

(6) No Adult Business shall permit any architectural building element that draws attention to the Adult Business, including but not limited to, neon lighting outlining the building, spot lighting, strobe lighting or garish paint.

(7) An Adult Business shall obtain a sign permit prior to installation or any modification of any sign, in accordance with the Ogden Zoning Regulations. (Ord. 643; Code 2017)

5-1217.

LOCATION REQUIREMENTS. (a) No license shall be issued for an Adult Business if the proposed business premises do not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.

(b) Such businesses are separated by the distance of 1,000 feet from the following:

(1) Any residential zoned area, including R-1, R-2, R-3, MU, or MHP districts;

(2) Any public park;

(3) Any public library;

(4) Any existing accredited public or private elementary or secondary school,

(5) Any church or house of worship;

(6) Any state licensed day-care or child care facility.

(c) Such businesses are separated by the distance of 450 feet from the following:

- (1) Any Arterial Roadway as designated by the City;
- (2) Any State Highway Right-of-way, whether the same is within or without the City limits.

(d) The separation distance between an Adult Business and a protected use shall be measured in a straight line, without regard to intervening objects or structures, from the closest part of the Adult Business premises, including signs and roof overhangs, to the closest point on property boundaries on which a protected use is located; or, if a protected use is located on a parcel of land that lacks a defined boundary, to the closest point of the actual improvement that is the protected use.

(e) It shall be unlawful to operate more than one Adult Business in any building, structure or portion thereof.

(f) Such businesses are located in a Northerly direction from the Right-of-Way of the Union Pacific Railroad that bisects the City.

(g) Non-conforming Businesses.

(1) An Adult Business is nonconforming if it previously conformed to this Article and all applicable Ogden Zoning Regulations, or if it has not been subject to this Article or the Ogden Zoning Regulations, and it has remained in the same condition continuously since such time, and the only reason it no longer conforms, is because of a change in this Article or the Ogden Zoning Regulations.

(2) Non-conforming businesses may continue operation for a period not to exceed 6 months, unless sooner terminated for any reason, or voluntarily discontinued for a period of 30 days or more. Any nonconforming business may apply to the Governing Body for an extension of time beyond 6 months upon a showing of extreme hardship. The extension of time shall not exceed 1 year after the 6 month termination date.

(3) Non-conforming businesses shall not be increased, enlarged, extended or altered except to change to a conforming business.

(4) If 2 or more Adult Businesses are within 500 feet of one another and otherwise in a permissible location, the Adult Business which was established first and continually operating is the conforming business and any later-established business is the nonconforming business.

(5) A conforming Adult Business is not rendered nonconforming by the location, subsequent to the grant or renewal of an Adult Business license, of a protected use. In the event that an owner of a conforming Adult Business sells the Adult Business to another person, the new owner may apply for an Adult Business license of the same type held by the prior owner, without the Adult Business becoming nonconforming in the interim, but no later than 30 working days from the prior owner's termination of operation of the Adult Business.

(Ord. 643; Code 2017)

5-1218.

FACILITY REQUIREMENTS. (a) An Adult Business providing Adult Entertainment shall install a stage at least 2 feet above the immediate floor level and removed at least 6 feet from the nearest patron. The 6 foot boundary from the outer edge of the stage shall be clearly indicated to prevent patrons from crossing the boundary. The absence of this demarcation boundary shall be prima facie evidence that there have been performances in the unmarked areas, in violation of the standards of conduct.

(b) Exterior observation. The premises of all Adult Businesses shall be constructed to ensure that the interior of the premises cannot be observed from the exterior of the premises. Windows shall be covered and doorways shall be constructed or covered to prevent observation of the interior of the premises from the exterior of the premises.

(c) Exterior display. No Adult Business shall be conducted in any manner which permits the observation of live performers from any exterior source by display, decoration, sign, show window or other opening.

(d) Lighting required. The premises of all Adult Businesses shall be equipped with overhead lighting in every place to which customers are permitted access, at an illumination of not less than one foot candle, as measured at the floor level, and such illumination must be maintained at all times that any patron is present on the premises.

(e) Ventilation and sanitation requirements. The premises of all Adult Businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

(f) Closed booths or private rooms prohibited. The interior premises of all Adult Businesses shall be configured so that there is an unobstructed and direct-line-of-sight view from a Manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Closed booths or private rooms are prohibited.

(g) The code official shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the city clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this section. (Ord. 643; Code 2017)

5-1219. PENALTY FOR VIOLATION. It shall be unlawful for any person to violate any of the provisions of this article. Upon conviction thereof, the person shall be punished for each offense by a fine less than or equal to \$500, or by imprisonment for a period less than or equal to six months, or by both such fine and imprisonment. Each day any violation of this article shall continue shall constitute a separate offense. (Ord. 643; Code 2017)

5-1220. AUTHORITY TO PROMULGATE REGULATIONS. The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this article. (Ord. 643; Code 2017)

5-1221. SAVINGS CLAUSE. Neither the adoption of this article nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any

ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 643; Code 2017)

5-1222. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this article, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article. (Ord. 643; Code 2017)