Chapter 10

BUSINESSES

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ARTICLE I. IN GENERAL

Sec. 10-1. Home, garage or rummage sales.

(a) No person shall conduct a home, garage, or rummage sale on his premises without first obtaining a license from the city clerk to do so, and no more than two sales shall be permitted by the same person or on the same premises during a calendar year. Each such license shall be good for a maximum of three consecutive days.

(b) The city clerk shall issue the license to the applicant, and the fee shall be per the city fee schedule.

(c) Churches, and community service and charitable organizations are exempt from this section.

(d) The provisions of this section shall not apply to secondhand stores, flea markets, or area-wide garage sales sponsored by the city or chamber of commerce.
(Code 1977, § 14-1; Ord. No. G-102, § 3, 2-11-1970; Ord. No. G-79-09, § 5, 10-24-1979)

Sec. 10-2. Solicitors, peddlers, hawkers, itinerant merchants, transient vendors, etc.

(a) No transient vendor, as defined in subsection (b) of this section, shall transact business within the city without applying for and being issued a license to conduct such business. Applications for transient vendor licenses shall be submitted to the city clerk in writing on forms provided by the city clerk and signed by the applicant. The application shall contain the same information required by K.S.A. 19-2235, and shall be accompanied by a copy of the transient merchant license issued by the county clerk's office.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Temporary or transient business means any business conducted for the sale or offer for sale of goods, wares, merchandise, or services which is carried on in any building, structure or motor vehicle, or on any real estate, for a period of less than six months in each year.

Transient vendor means any person who engages in, does or transacts any temporary or transient business within the city, either in one locality or in traveling from place to place in the city, and includes vendors who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle or real estate.

(c) A fee per the city's fee schedule shall be charged for each license issued hereunder. Each license shall be valid only for a period of three consecutive days.

(d) The provisions of subsections (a) through (c) of this section shall not apply to any person, event or sale exempt from the Transient Merchant Licensing Act as enumerated in K.S.A. 19-2231 et seq.

(e) Any person who violates the provisions of this section shall be guilty of a class two offense.
(Code 1977, § 14-3; Ord. No. G-82-08, § 1, 5-26-1982; Ord. No. G-99-08, § 1(14-3), 12-28-1999)

Secs. 10-3—10-22. Reserved.

ARTICLE II. PAWNBROKERS AND PRECIOUS METALS DEALERS*

DIVISION 1. GENERALLY

Sec. 10-23. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pawnbroker means any person who loans money, on deposit or pledge of personal property or other valuable thing, other than intangible personal property, or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price. The term "pawnbroker" does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit commissioner of this state.

Precious metal means gold, silver or platinum group metals or any articles containing such metals, other than coins purchased for their numismatic value rather than their metal content.

Precious metal dealer means any person who engages in the business of purchasing used personal property made of or containing gold, silver, platinum or other precious metal, but not including uncirculated coins, ingots and other manufactured new products.
(Code 1977, § 19-1; Ord. No. G-132, § 1, 6-30-1972; Ord. No. G-81-04, § 1, 3-25-1981)
State law reference—Similar provisions, K.S.A. 16-706.

Sec. 10-24. Access for examinations, searches and seizures.

Law enforcement officers of the city or county shall have access during regular business hours to the place of business of any pawnbroker or precious metal dealer conducting business in the city. Access shall be for the purpose of periodically inspecting property pledged or

***State law reference**—Regulation of pawnbrokers, K.S.A. 16-706 et seq.

purchased in the transaction of the business of the pawnbroker or precious metal dealer, and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of law.
(Code 1977, § 19-3; Ord. No. G-132, § 13, 6-30-1972; Ord. No. G-81-04, § 2, 3-25-1981)
State law reference—Similar provisions, K.S.A. 16-718.

Sec. 10-25. Loan contracts generally; redemption of pledged articles.

(a) Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract, in ink, a copy of which shall be furnished to the borrower. The loan contract shall set forth the loan period, which shall be one month, the date on which the loan is due and payable and the charges, and it shall clearly inform the borrower of his right to redeem the pledge during the redemption period of two months after due date. Except as otherwise provided herein, the holder of any such contract shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver the pledge to the person presenting the contract, upon payment of the principal and charges.

(b) Every pawnbroker shall retain in his possession, after the date on which the loan became due and payable, every article pledged to him for a redemption period of two months. During such period, the borrower may redeem the pledged articles, upon payment of the principal and charges. It shall be unlawful for any pawnbroker to sell or transfer title or possession of any pledged property until the expiration of such period of redemption.

(c) If any pledged article is not redeemed within such redemption period, the pawnbroker shall become vested with all right, title and interest of the pledgor, or his assigns, to such pledged article, to hold and dispose of as his own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge, the title to which is transferred in accordance with this section.
(Code 1977, § 19-4; Ord. No. G-132, § 9, 6-30-1972)
State law reference—Similar provisions, K.S.A. 16-714.

Sec. 10-26. Interest and charges on transactions; terms of loans.

(a) No pawnbroker shall contract for, charge or receive, directly or indirectly, on or in connection with any pawnbroker transaction any charges, whether for interest, storage, insurance, service fee, handling, compensation, consideration or expense, which in the aggregate are greater than the charges provided and authorized by this chapter.

(b) Whenever any loan is made by a pawnbroker for which goods are received in pledge, the following maximum amounts may be charged:

(1) On any amount a charge may be added in an amount not to exceed ten percent per month or 120 percent per annum of the amount advanced to the borrower; and

(2) The maximum amount of a loan authorized by this chapter shall not exceed $5,000.00 per transaction.

(c) The term of any loan made under the provisions of this chapter shall be one month. Loans may be extended or renewed by the payment of the charges herein provided monthly. The charges authorized herein shall be deemed to be earned at the time the loan is made and shall not be subject to refund. On loans under this chapter, no insurance charges or any other charges of any nature whatsoever shall be permitted.
(Code 1977, § 19-5; Ord. No. G-132, § 14, 6-30-1972)

State law reference—Similar provisions, K.S.A. 16-719.

Sec. 10-27. Pawnbook.

(a) At the time of making a loan, a pawnbroker shall enter in a book kept for that purpose:

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

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

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

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

(1) The date of the purchase;

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

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

(c) The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of the transaction.
(Code 1977, § 19-5; Ord. No. G-132, § 11, 6-30-1972; Ord. No. G-81-04, § 3, 3-25-1981)

State law reference—Similar provisions, K.S.A. 16-716.

Sec. 10-28. Report of description of acquired property; exception.

(a) Every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received. Such report shall include all property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other

acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.

(b) If a transaction required to be reported under this section takes place within the territorial limits of the city, the report shall be submitted to the chief of police of the city.

(c) All reports made pursuant to this section shall comply with and be submitted in accordance with the terms of any applicable city ordinances.

(d) Every precious metal dealer shall retain in the dealer's possession, for a period of ten days, all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The ten-day period shall commence on the date that the police chief receives the report of its acquisition in compliance with this section. If the police chief has probable cause to believe that any precious metal reported by a dealer has been stolen, the police chief may give a written notice to the dealer to retain such metal for an additional period of 15 days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional 15-day period unless the police chief notifies the dealer in writing that the waiting period is terminated at an earlier time.

(e) Reports made pursuant to this section shall be available for inspection only by law enforcement officers and county and city attorney and their employees, for law enforcement purposes.

(Code 1977, § 19-7; Ord. No. G-132, § 10, 6-30-1972; Ord. No. G-81-04, § 4, 3-25-1981)

State law reference—Similar provisions, K.S.A. 16-715.

Sec. 10-29. Procedures for submitting reports; contents; form.

(a) The report required by section 10-28 and the loan contract required by section 10-25 shall be submitted to the chief of police, or his designated representative, before 9:00 a.m. on Mondays, except when Monday is a legal holiday, in which case such reports shall be made before 9:00 a.m. on the following Tuesday.

(b) Such reports and loan contracts shall be submitted on forms sufficient to show the information require by section 10-28.

(c) All forms shall be completed in their entirety as applicable in legible hand; that is, all information requested by itemization on the form shall be complete and legible. In addition, each form shall be signed by the person completing the transaction on behalf of the licensed pawnbroker or precious metal dealer and also signed by the person pledging, pawning, or selling.

(Code 1977, § 19-8; Ord. No. G-132, § 16, 6-30-1972; Ord. No. G-80-07, § 1, 5-28-1980; Ord. No. G-81-18, § 1, 11-25-1981)

Sec. 10-30. Offenses relative to preparation of reports.

It shall be an offense for any person pawning, pledging or selling to any person licensed as a pawnbroker to supply false information or to make misrepresentation at the time of the pawn, pledge or sale in connection with the report required by sections 10-28 and 10-29. It shall be an offense for any person to receive any item in pawn, pledge or for sale under the terms of this chapter without requiring the information designated for report to the chief of police or to willfully or knowingly alter, change or falsify such information to be supplied in the report.
(Code 1977, § 19-9; Ord. No. G-132, § 17, 6-30-1972)

Sec. 10-31. Refusal to redeliver converted or stolen property received to rightful owner.

(a) A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

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

(b) When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorneys' fees incurred by the rightful owner, if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property.
(Code 1977, § 19-10; Ord. No. G-132, § 15, 6-30-1972; Ord. No. G-81-04, § 5, 3-25-1981)
State law reference—Similar provisions, K.S.A. 16-720.

Sec. 10-32. Dealing with persons under 18 years of age.

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

(b) No precious metal dealer shall purchase any precious metal from any person under the age of 18 years.
(Code 1977, § 19-11; Ord. No. G-132, § 12, 6-30-1972; Ord. No. G-81-04, § 6, 3-25-1981)
State law reference—Similar provisions, K.S.A. 16-717.

Secs. 10-33—10-52. Reserved.

DIVISION 2. LICENSES

Sec. 10-53. Required.

No person shall engage or continue in business as a pawnbroker or precious metal dealer without first obtaining a license therefor from the city clerk.
(Code 1977, § 19-23; Ord. No. G-132, § 2, 6-30-1972; Ord. No. G-81-04, § 7, 3-25-1981)

Sec. 10-54. Application; fees.

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

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

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

(b) The license application shall be in a form approved by the attorney general. Each application shall be accompanied by a fee in accordance with the city's fee schedule, which shall be paid annually upon renewal of the license. All such fees received by the city clerk shall be deposited in the city general fund.
(Code 1977, § 19-24; Ord. No. G-132, § 2, 6-30-1972; Ord. No. G-81-04, § 8, 3-25-1981; Ord. No. G-82-05, § 10, 5-12-1982)

Sec. 10-55. Persons to whom licenses not to be issued.

No license required by this division or any renewal thereof shall be granted to:

(1) Any person who is not a citizen of the United States;

(2) Any person who has not been an actual resident of the state for at least two years immediately preceding the date of his application;

(3) Any person who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his bond to appear in court to answer charges for any such offense within the ten years immediately prior to such person's application for a license;

(4) Any person who has had his license revoked for cause under the provisions of this chapter;

(5) Any person who is not at least 21 years of age;

(6) Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(7) Any person who does not own the premises for which a license is sought, unless he has a written lease therefor for at least three-fourths of the period for which the license is to be issued;

(8) Any person whose spouse would be ineligible to receive a license hereunder for any reason other than the age, citizenship and residence requirements;

(9) Any partnership, unless all of the partners shall be eligible to receive a license as an individual; and

(10) A corporation, if any officer, manager, director or stockholder would be ineligible to receive a license as an individual.

(Code 1977, § 19-25; Ord. No. G-132, § 3, 6-30-1972)

State law reference—Similar provisions, K.S.A. 16-708.

Sec. 10-56. Contents; display; transferability.

(a) The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof; and if a corporation, the date and place of its incorporation and the names of all shareholders thereof.

(b) Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(Code 1977, § 19-26; Ord. No. G-132, § 5, 6-30-1972; Ord. No. G-81-04, § 9, 3-25-1981)

Sec. 10-57. Number of places of business under one license; licensee may be issued more than one license.

Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all the provisions of this chapter governing the issuance of an initial license.

(Code 1977, § 19-27)

Sec. 10-58. Suspension or revocation.

(a) Any license issued under this article may be suspended or revoked, after due notice and public hearing, if the licensee:

(1) Has failed to pay the annual license fee;

(2) Has violated any provision of this chapter; or

(3) Has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten years immediately prior to the date of the licensee's application for the license.

(b) Any license issued under this chapter shall be revoked, after due notice and hearing thereon, if it shall be proved at the hearing that the licensee sold any handgun to a minor.

(c) The hearing herein provided shall be held within 30 days after notice thereof, and the alleged violation determined by written order of the city within 60 days after such hearing is concluded; but no revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.
(Code 1977, § 19-28; Ord. No. G-132, § 8, 6-30-1972)

Sec. 10-59. Change in location of place of business; duplicate license.

Whenever a person licensed pursuant to this article shall change his place of business to another location within the same political subdivision by which he is licensed, he immediately shall give written notice thereof to the city clerk who then shall issue a duplicate license which shall show, in addition to all of the information appearing on the old license, a record of the change of location and the date thereof, which new license shall be authority for the operation of such business under such license at such location. The licensee shall return the old license to the appropriate clerk as soon as the new license has been received and the change in location has taken place. No change in the place of business of a licensee to a location outside of the licensing subdivision shall be permitted under the same license.
(Code 1977, § 19-29; Ord. No. G-132, § 6, 6-30-1972)

Sec. 10-60. Licensee to keep and use books, accounts and records; examination of books, etc.

Each licensee shall keep and use in the licensee's business, such books, accounts and records as will enable the city issuing the licensee's license to determine whether such licensee is complying with the provisions of this chapter. The city may examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person acts

or claims to act as principal, agent or broker, or under or without authority of this chapter. The duly designated representatives of the city shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults.
(Code 1977, § 19-30; Ord. No. G-132, § 7, 6-30-1972; Ord. No. G-81-04, § 10, 3-25-1981)

Sec. 10-61. Transfer of stock of corporate licensee.

(a) It shall be unlawful for any shareholder of a corporation licensed pursuant to this article to transfer any stock in the corporation to any person who would be ineligible to receive a license as an individual, and any such transfer shall be null and void; provided, however, if any such stockholder of a corporate licensee shall become deceased, and his heirs or devisees to whom the stock descends by descent and distribution or by will shall be ineligible to receive a license hereunder, then the legal representatives of the deceased stockholder's estate, his heirs and devisees shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a license hereunder, with such sale to be made in accordance with the provisions of the probate code and any amendments thereto.

(b) If the legal representatives, heirs and devisees shall fail, refuse or neglect to so convey the stock within the time hereinbefore prescribed, then the stock shall revert to and become the property of the corporation, for which the corporation shall pay to the legal representatives, heirs or devisees the book value of such stock.

(c) If the stock in any corporation shall be the subject of any trust heretofore or hereafter created, the trustee or trustees and the beneficiaries of each trustee and beneficiary of the trust who is 21 years of age or older must be a person who would be eligible to receive a license, or the trustee shall be and he is hereby authorized and required, within 14 months after the effective date of the trust, to sell the stock to a person eligible to receive a license under this chapter, and he shall hold and disburse the proceeds thereof in accordance with the terms of the trust, or the license of the corporation shall be forfeited.

(d) During the 14-month periods described in this section, a corporation shall not be denied a license or have its license revoked if it meets all of the other requirements necessary to have a license as provided in this chapter.
(Code 1977, § 19-31; Ord. No. G-132, § 4, 6-30-1972)

Secs. 10-62—10-77. Reserved.

ARTICLE III. TAXICABS

Sec. 10-78. Taxicab defined.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Taxicab means and includes any and all motor vehicles designed to carry seven or fewer passengers for hire for which public patronage is solicited and the transportation fee is collected at the time the service is provided.
(Code 1965, § 26-101; Code 1977, § 28-16)

Sec. 10-79. License required.

No person shall operate or permit to be operated on the streets of the city any taxicab without first having procured a license therefor as hereinafter provided.
(Code 1965, § 26-102; Code 1977, § 28-17)

Sec. 10-80. Application for license to be filed; form of application; contents.

Any person desiring to obtain a license required by this article shall file an application therefor with the city clerk. Such application shall be made by the owner of such taxicab on a blank form provided by the city clerk and shall contain the following:

(1) The full name and address of the owner.

(2) The length of time the vehicle has been in use.

(3) The number of persons it is constructed or built to carry.

(4) A description of the vehicle, including the year, make, model, color, state license tag number, the principal place of business, telephone number and office address of the owner; and if the owner is a corporation, the names of the officers and directors of such corporation; and if a partnership, the names of all of the partners.

(5) The trade name under which the taxicab shall be operated.

(6) The signature of the owner, if an individual, one of the partners, if a partnership, and the managing officer of the corporation, if a corporation.

(7) That the vehicle or vehicles passed an inspection by the police department.
(Code 1965, § 26-103; Code 1977, § 28-18; Ord. No. G-78-02, § 1, 2-22-1978; Ord. No. G-79-09, § 12, 10-24-1979)

Sec. 10-81. License fees.

Before the issuance of a license required by this article, the applicant shall pay to the city clerk a license fee in accordance with the city's fee schedule. All licenses issued under this article shall expire on December 31 of each year. There shall be no prorating of the license fee.
(Code 1965, § 26-109; Code 1977, § 28-21; Ord. No. G-78-02, § 1, 2-22-1978; Ord. No. G-79-09, § 13, 10-24-1979; Ord. No. G-82-05, § 16, 5-12-1982)

Sec. 10-82. Insurance requirements.

Before a license for a taxicab shall be issued, the owner of such taxicab shall file with the city clerk an insurance policy issued by an insurance company licensed to do business in the state. Such policy shall provide insurance coverage for each and every taxicab owned, operated or leased by the applicant, with a liability coverage of not less than the minimum amounts required by state law. The insurance coverage shall be effective whether the taxicab was, at the time of any accident, being driven by the owner, his agent, employee, lessee or the licensee. Such policy shall contain all the conditions required by the laws of the state and shall carry a uniform endorsement for actual notice to the city of any changes therein. The policy shall further provide that it cannot be cancelled unless at least ten days' written notice of such cancellation has been filed with the city clerk. The cancellation or other termination of any insurance policy issued for or in compliance with the provisions hereof shall automatically terminate any license issued for the taxicab covered by such insurance policy, unless another policy complying with the provisions hereof shall be provided and shall be in full force and effect at the time such cancellation or termination becomes effective.
(Code 1965, § 26-104; Code 1977, § 28-22)

Sec. 10-83. License not transferable.

No license issued pursuant to this article shall be transferable or assignable.
(Code 1965, § 26-115; Code 1977, § 28-25)

Sec. 10-84. License to be kept in vehicle.

A taxicab license shall be constantly kept in the licensed vehicle at all times.
(Code 1965, § 26-108; Code 1977, § 28-26)

Sec. 10-85. Register of taxicabs.

The city clerk shall keep a register showing the name and address of each person licensed under this article. The register shall indicate a description and the license number of each taxicab operated in the city. Such register shall be a public record and open to inspection by the public at all times.
(Code 1965, § 26-110; Code 1977, § 28-28)

Sec. 10-86. Maintenance of equipment.

All vehicles licensed and operated as taxicabs in the city and all equipment used in connection therewith shall be kept clean, mechanically safe and neat in appearance.
(Code 1965, § 26-112; Code 1977, § 28-31; Ord. No. G-155, § 1, 11-28-1973)

Secs. 10-87—10-102. Reserved.

ARTICLE IV. ADULT MEDIA OUTLETS AND RETAIL ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 10-103. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult media means books, magazines, periodicals, other printed matter, pictures, slides, records, audio tapes, videotapes, compact discs, DVD's, motion pictures, films, CD-ROM's or other devices used to record computer images, or other similar media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," as those terms are defined herein.

Adult media outlet.

(1) An "adult media outlet" is a business engaging in the exchange, rental or sale of "adult media" if such business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of the business is devoted to the exchange, rental or sale of "adult media."

(2) For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the exchange, rental or sale of "adult media" if any one or more of the following criteria is satisfied:

a. Forty percent or more of the exchanges, rentals or sales, measured in dollars over any consecutive 90-day period, is derived from such items;

b. Forty percent or more of the number of transactions, measured over any consecutive 90-day period, relate to such items;

c. Forty percent or more of the dollar value of all merchandise displayed at any time is attributable to such items;

d. Forty percent or more of all inventory consists of such items at any time;

e. Forty percent or more of the merchandise displayed for sale consists of such items at any time;

f. Forty percent or more of the floor area of the business (not including storerooms, stock areas, restrooms, basements or any portion of the business not open to the public) is devoted to such items at any time.

This presumption shall be rebuttable.

Adult retail establishment means a business that displays or offers goods for sale, rental or exchange that meets any of the following tests:

(1) It displays or offers for sale, rental or exchange items from any two of the following categories: "sexually-oriented toys or novelties"; clothing that graphically depicts any "specified anatomical area"; or leather or other goods designed or marketed for use for sexual bondage or sadomasochistic practices; and the combination of such items constitutes:

a. Ten percent or more of the sales, rentals or exchanges, measured in dollars over any consecutive 90-day period;

b. Ten percent or more of the sale, rental or exchange transactions, measured over any consecutive 90-day period;

c. Ten percent or more of the dollar value of all merchandise displayed at any time;

d. Ten percent or more of all inventory at any time, measured by the number of items;

e. Ten percent or more of the merchandise displayed at any time, measured by the number of items; or

f. Ten percent or more of the sales floor area of the business (not including storerooms, stock areas, restrooms, or any portion of the business not open to the public) at any time;

(2) Five percent or more of the sales, rentals or exchanges, measured in dollars over any consecutive 90-day period, is derived from "sexually-oriented toys or novelties";

(3) Five percent or more of the number of sale, rental or exchange transactions, measured over any consecutive 90-day period, relate to "sexually-oriented toys or novelties";

(4) Five percent or more of the dollar value of all merchandise displayed at any time is attributable to "sexually-oriented toys or novelties";

(5) Five percent or more of all inventory, measured by the number of items, consists of "sexually-oriented toys or novelties" at any time;

(6) Five percent or more of all merchandise displayed, measured by the number of items, consists of "sexually-oriented toys or novelties" at any time;

(7) Five percent or more of the sales floor area of the business (not including storerooms, stock areas, restrooms, or any portion of the business not open to the public) is devoted to "sexually-oriented toys or novelties" at any time.

Sexually-oriented toys or novelties.

(1) Sexually-oriented toys or novelties" means instruments, devices or paraphernalia which either depict representations of "specified anatomical areas" or are designed or marketed for use in connection with "specified sexual activities."

(2) In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities," the following guidelines may be considered:

a. Expert testimony as to the principle use of the item;

b. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;

c. National and local advertising concerning the use of the item;

d. Evidence of advertising concerning the nature of the business establishment;

e. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;

f. The physical or structural characteristics of the item;

g. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

(3) Any person may request an interpretive ruling from the chief of police, or his designee, as to whether a particular item is considered by the city to be "designed or marketed for use" in connection with "specified sexual activities." An application for an interpretive ruling shall be made in writing on a form provided by the chief of police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The chief of police shall issue a written interpretive ruling within ten business days following submission of a completed application. The decision of the chief of police may be appealed to the city council within 15 days following the interpretive ruling by submitting a written notice of appeal to the city clerk.

Specified anatomical areas means uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breasts or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities mean any of the following acts of intended sexual arousal or excitement:

(1) Sexual conduct including, but not limited to, actual or simulated acts of sexual intercourse, masturbation, oral copulation or sodomy;

(2) Fondling or other intentional touching of a person's clothed or unclothed genitals, pubic area, buttocks, or the female breast;

(3) Sadomasochistic acts; or

(4) Acts involving animals or latent objects.

(Ord. No. G-05-01, § 1(17-218), 3-22-2005)

Sec. 10-104. Purpose and intent.

(a) *Purpose.* It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(b) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the board of commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); Sewell v. Georgia, 435 U.S. 982 (1978); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Dallas v. Stanglin, 490 U.S. 19 (1989); and Uniontown Retail #36, LLC v. Bd. of Comm'rs of Jackson County, 950 N.E.2d 332 (Ind. Ct. App. 2011); Plaza Group Properties, LLC v. Spencer County Plan Comm'n, 911 N.E.2d 1264 (Ind. Ct. App. 2009); Plaza Group Properties, LLC v. Spencer County Plan Comm'n, 877 N.E.2d 877 (Ind. Ct. App. 2007); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Andy's Restaurant & Lounge, Inc. v. City of Gary, 466 F.3d 550 (7th Cir. 2006); Blue Canary Corp. v. City of Milwaukee, 270 F.3d 1156 (7th Cir. 2001); Schultz v. City of Cumberland, 228 F.3d 831 (7th Cir. 2000); Matney v. County of Kenosha, 86 F.3d 692 (7th Cir. 1996); Berg v. Health & Hospital Corp., 865 F.2d 797 (7th Cir. 1989); DiMa

Corp. v. Town of Hallie, 185 F.3d 823 (7th Cir. 1999); Graff v. City of Chicago, 9 F.3d 1309 (7th Cir. 1993); North Avenue Novelties, Inc. v. City of Chicago, 88 F.3d 441 (7th Cir. 1996); Chulchian v. City of Indianapolis, 633 F.2d 27 (7th Cir. 1980); Illinois One News. Inc. v. City of Marshall, All F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Metro Pony, LLC v. City of Metropolis, 2012 WL 1389656 (S.D. 111. Apr. 20, 2012); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Richland Bookman, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696. Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (III. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Tucson, Arizona - 1990; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current Transac-

tional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Memphis, Tennessee - 2005-2011; and assorted reports and affidavits concerning secondary effects, the board of commissioners finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this section are reasonably believed to be relevant to said secondary effects.

(4) The city adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

Sec. 10-105. Entry for purposes of inspection.

(a) Any business that engages in the exchange, rental, or sale of adult media if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas shall be deemed to have consented to periodic entry into and

inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is in compliance with this article.

(b) Entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.
(Ord. No. G-05-01, § 1(17-220(12)), 3-22-2005)

Secs. 10-106—10-120. Reserved.

DIVISION 2. LICENSING

Sec. 10-121. License required.

It is unlawful for any person to operate an adult media outlet or an adult retail establishment without first having obtained a license therefor. The failure to conspicuously post an adult media outlet or adult retail establishment license on the premises of the business shall be prima facie evidence that the business has not obtained such a license.
(Ord. No. G-05-01, § 1(17-219(1)), 3-22-2005)

Sec. 10-122. Application form and content.

(a) All persons desiring to secure a license to operate an adult media outlet or an adult retail establishment shall make a verified application with the city clerk. All applications shall be submitted in the name of the person who owns the business.

(b) The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its president. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The city clerk may require proof of authorization before accepting the application.

(c) All applications shall be submitted on a form supplied by the city clerk and all of the information requested in the application shall be supplied by the applicant. Failure to provide the information and documentation shall constitute an incomplete application. The city clerk shall notify the applicant whether the application is complete within ten working days of the date the application is received by the city clerk. All incomplete applications shall be denied.

(d) The application shall be submitted together with a license fee in the amount provided in the city fee schedule.
(Ord. No. G-05-01, § 1(17-219(1)), 3-22-2005)

Sec. 10-123. Procedure for review, investigation, issuance, denial and appeal.

(a) *Distribution of copies to city personnel.* Upon receipt of an application for an adult media outlet or adult retail establishment, the city clerk shall transmit a copy of the application to the chief of police for investigation. In addition, the city clerk shall transmit a copy of the application to the city manager, building official and fire chief.

(b) *Investigation by police chief.* The police chief shall investigation the application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license for which the application is made. The chief of police shall report the results of the investigation to the city clerk not later than 15 working days from the date a complete application is received by the city clerk.

(c) *Investigation by building official and fire chief.* The building official and the fire chief shall determine whether the structure where the adult media outlet or adult retail establishment will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, and fire code ordinances of the city. The building official and the fire chief shall report the results of their investigation to the city clerk not later than 15 working days from the date a complete application is received by the city clerk.

(d) *Placement of application on city council agenda.* Upon receipt of the reports from the chief of police, building official and the fire chief, the city clerk shall schedule an application for an adult media outlet or adult retail establishment business license for consideration by the city council at the earliest meeting consistent with any applicable notification requirements established by law; provided, that any license application for an adult media outlet or adult retail establishment shall be approved or disapproved within 45 days from the date a complete application is received by the city clerk. The applicant shall be notified in writing of the date when the city council will consider the application and shall be afforded an opportunity to be heard at that meeting.

(e) *Review and determination by city council.* The city council shall examine an application for an adult media outlet or adult retail establishment within 45 days of the date a complete application was received by the city clerk. After such examination, the city council shall approve the issuance of a license only if the appropriate license fee has been paid, the applicant is qualified, and all the applicable requirements set forth herein are met. The record of the city council shall show the action taken on the application.

(f) *Issuance and content of license.* If the license is granted, the city council shall direct the city clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued.

(g) *Denial of license; notice to applicant.* If an application for a license is denied, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval.

(h) *Appeal.* Any applicant aggrieved by the disapproval of a license may seek judicial review in the Montgomery County district court in a manner provided by law.
(Ord. No. G-05-01, § 1(17-219(2), (3)), 3-22-2005)

Sec. 10-124. Eligibility for licensure.

No license shall be approved for any person ineligible under this section. An applicant for an adult media outlet or adult retail establishment if one or more of the following conditions exist:

(1) The premises for which an application for an adult media outlet or adult retail establishment has been made is located with 1,000 feet of any school, church, licensed child care center or child care center that has been inspected by the city, public park, or property zoned or used for residential purposes, which uses are located within the city limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult media outlet or adult retail establishment would be operated to the nearest point on the property line of any school, church, licensed child care center or child care center that has been inspected by the city, public park, or property zoned or used for residential purposes located within the city.

(2) The premises for which an application for an adult media outlet or adult retail establishment has been made is located with 1,000 feet of any other adult media outlet or adult retail establishment, regardless of whether such businesses are located on the same property or separate properties. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult media outlet or adult retail establishment would be operated to the nearest point on the property line of such other adult media outlet or adult retail establishment located within the city;

(3) The applicant knowingly failed to supply all of the information requested on the application.

(4) The applicant knowingly gave materially false, fraudulent, or untruthful information on the application.

(5) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city; provided, however, that upon a showing that the premises meets the requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the city council.

(6) An applicant has been convicted of or pleaded nolo contendere to, or participated in a division agreement after have been charged with, any felony or any offense involving moral turpitude in any jurisdiction with the five years immediately preceding the date of application.

(7) The applicant has had an adult media outlet or adult retail establishment license or comparable license revoked in this or any other city during the immediately preceding five years.

(Ord. No. G-05-01, § 1(17-219(4)), 3-22-2005)

Secs. 10-125—10-140. Reserved.

DIVISION 3. OPERATIONAL AND PREMISES REQUIREMENTS

Sec. 10-141. Standards of conduct.

(a) *Applicability.* It is unlawful for any adult media outlet or any adult retain establishment, or any manager or employee thereof, or any patron of an adult media outlet or an adult retail establishment, while on or about the premises of the business, to knowingly fail to adhere to the standards of conduct set forth in this section.

(b) *Age restriction.* Minors shall not be permitted on the premises of any adult media outlet or adult retail establishment.

(c) *Nudity prohibited.* No manager, employee or patron in an adult media outlet or adult retail establishment shall be nude.

(d) *Sale or consumption of alcohol prohibited.* No alcoholic liquor or cereal malt beverages shall be sold or consumed on the premises of an adult media outlet or adult retail establishment.

(e) *Specified sexual activities prohibited.* No manager, employee or patron of an adult media outlet or adult retail establishment shall engage in any specified sexual activity on the premises of the business.

(f) *Simulations of sexual activity prohibited.* No manager, employee or patron shall wear or use any device or covering exposed to view which simulates an specified anatomical area or use artificial devices or inanimate objects to simulate or depict any specified sexual activity while on the premises of an adult media outlet or adult retail establishment.

(g) *Certain physical contact prohibited.* No manager or employee of an adult media outlet or adult retail establishment while on the premises of the business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such manager or employee, whether such specified anatomical area is clothed, unclothed, covered or exposed. No patrol while on the premises of an adult media outlet or adult retail establishment shall knowingly touch,

fondle or caress any specified anatomical area of a manager or employee employed by the adult media outlet or adult retail establishment, whether such specified anatomical area is clothed, unclothed, covered or exposed.
(Ord. No. G-05-01, § 1(17-220(5), (6)), 3-22-2005)

Sec. 10-142. Premises requirements.

(a) *Exterior observation.* The premises of all adult media outlets and all adult retail establishments shall be so constructed as to ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

(b) *Interior sign.* All adult media outlets and adult retail establishment shall conspicuously display in the common area at the principal entrance to the premises, a sign, on which uppercase letters shall be a least two inches high which shall read as follows: THIS BUSINESS IS AN ADULT BUSINESS AND IS REGULATED AND LICENSED BY THE CITY OF COFFEYVILLE. ONLY PERSONS 18 YEARS OF AGE OR OLDER SHALL BE PERMITTED ON THE PREMISES.

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

(d) *Unobstructed view required; closed booths or rooms prohibited.* The interior premises of all adult media outlets and adult retail establishments shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. The view required must be by direct line of sight from the manager's station. Adult video viewing booths are prohibited.

(e) *Ventilation and sanitation.* The premises of all adult media outlets and adult retail establishments 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.
(Ord. No. G-05-01, § 1(17-220(5), (9), (10)), 3-22-2005)

Sec. 10-143. Hours of operation.

No adult media outlet or adult retail establishment may be open or in use between the hours of 12:00 a.m. and 8:00 a.m., Monday through Saturday or 12:00 a.m. and 11:59 p.m. on Sundays and legal public holidays, as designated in K.S.A. 35-107, as amended.
(Ord. No. G-05-01, § 1(17-220(11)), 3-22-2005)

Sec. 10-144. Additional restrictions on retail sales of adult media.

(a) *Applicability.* This section shall apply to any bookstore, video store or other similar retail store in which adult media constitutes more than ten percent but not more than 40 percent of the store's inventory at any time, or where adult media constitutes more than ten percent but not more than 40 percent of the merchandise displayed for sale or rental at any time, or where adult media occupies more than ten percent but not more than 40 percent of the sales floor area of the business (not including storerooms, stock areas, restrooms, or any portion of the business not open to the public) at any time.

(b) *Prohibition of public display.* The owner or manager of a store to which this section is applicable shall have the affirmative duty to prevent the display of adult media at or within the portions of the business open to minors.

(c) *Display of adult media.* Adult media in a store to which this section applies shall be kept in a separate room or section of the store, which room or section shall:

(1) Not be open to any minor;

(2) Be physically and visually separate from the rest of the store by an opaque wall or durable material reaching at least eight feet high or to the ceiling, whichever is less;

(3) Be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children; and

(4) Have access controlled by electronic or other means to provide assurance that minors will not accidentally enter such room or section.

(Ord. No. G-05-01, § 1(17-221), 3-22-2005)

Sec. 10-145. Duty of owner, operator or manager to ensure compliance.

No owner, operator or manager of an adult media outlet or adult retail establishment shall knowingly allow or permit:

(1) Alcoholic liquor or cereal malt beverages to be brought, sold or consumed upon the premises;

(2) Any employee of the business or any patron to engage in any specified criminal act or any specified sexual activity on the premises;

(3) Any minor to be in or upon the premises;

(4) A violation of this article or any other city ordinance provision or state law to occur on the premises.

(Ord. No. G-05-01, § 1(17-220(6)), 3-22-2005)

Chapter 11

RESERVED