

CHAPTER VIII. LICENSES, BUSINESS REGULATIONS

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ARTICLE 1. LICENSES GENERALLY, TAXES LEVIED

8-101 Purposes. The purposes of this chapter are to protect the public against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruptions of privacy, and to preserve the public health, safety and welfare by regulating and controlling solicitors, peddlers and canvassers. (Ord. 2010-03)

8-102 Definitions. For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

- A. "Canvass" as used in this chapter means opinion sampling, poll-taking, proselytizing, or other similar activity from house to house, door to door, street to street, or from place to place, excluding Federal, state, county or Spring Hill municipal census takers.
- B. "Canvasser" as used in this chapter means any person who engages in canvassing in person for himself or any other person.
- C. "Charitable" as used in this chapter means any activity represented as carried on from unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical, or religious activities, either actual or implied.
- D. "City" as used in this chapter means the city of Spring Hill, Kansas.
- E. "Individual Dwelling Unit" as used in this chapter means a portion of a building containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.
- F. "Multi-Family Dwelling Complex" as used in this chapter means a grouping of individual buildings which are arranged, intended or designed for occupancy by 3 or more families, commonly referred to as apartments, town homes, or condominiums.
- G. "Peddle" as used in this chapter means to operate from a temporary stand, display or similar facility or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares or merchandise for the purpose of offering and exposing the same for sale.
- H. "Peddler" as used in this chapter means a person who peddles for himself or any other person.
- I. "Person" as used in this chapter means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- J. "Solicit" and "Solicitation" as used in this chapter means and includes any one or more of the following:
 - 1. Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services of any kind, character or description;
 - 2. Requesting directly or indirectly contributions of funds on the plea or representation that such contributions will be used for a charitable purpose;
 - 3. Canvassing or peddling as defined in this section.

4. Advertising or offering of (to include, but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, regardless of whether a doorbell is rung or any physical or verbal contact is made.
- K. "Solicitation" as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale.
- L. "Solicitor" as used in this chapter means a person who solicits for himself or any other person.

(Ord. 2010-03)

8-103 Prohibited Acts.

A. It shall be unlawful for any solicitor to:

1. Ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words "*No Solicitors*", "*No Trespassers*", or words of similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof.

For purposes of this section, the "No Solicitors" decal issued by the City Clerk prominently displayed on the door shall constitute sufficient notice to all Solicitors. However, other similar signs, as defined above, are also sufficient.

2. It shall be unlawful for any solicitor to solicit or attempt to solicit at an Individual Dwelling Unit in a Multi-Family Complex when all street entrances to the Multi-Family Complex have been clearly posted with signs marked "No Solicitors". This paragraph shall not apply to Solicitation in an Individual Dwelling Unit when the Solicitor has been invited onto the property to solicit there by the occupant for that dwelling unit.
3. Solicit at hours other than the following: between ten o'clock (10:00) A.M. to seven (7:00) P.M. local time of any day.
4. Engage in soliciting upon any premises (including parking lots), business or dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises, business or residence.
5. Make more than one solicitation call at the same residential premises for identical goods, services, or contributions within any consecutive fourteen (14) day period without receiving a prior invitation therefore from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.
6. Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars (\$5.00) in cash or tangible property, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any charitable solicitor or organization accepting any contribution exceeding five dollars (\$5.00) in cash or tangible property to fail to provide, at the request of the donor, a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.
7. Fail at the outset, to disclose to the prospective buyer, prospective donor or canvasee his/her name and the name of the company, product or organization he/she represents.
8. Make any assertion, representation or statement which misrepresents the purpose of the call or use any plan, scheme, or ruse which misrepresents such purpose.
9. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction of adequate access to fire, police or sanitation vehicles.
10. Advertise or offer (to include, but not limited to) any item, service or benefit by the handing of or

flyer or handbill to any door, residence or business, if asked to discontinue by the owner/occupant, or if a "No Solicitors" sign is posted on the property, regardless of whether a doorbell is rung or any physical or verbal contact is made.

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

B. It shall be unlawful for any person to:

1. Solicit who has been convicted of a felony, misdemeanor or ordinance violation involving force, violence, moral turpitude, deceit, fraud or the violation of any law regulating the act of soliciting as defined in this chapter within the past five (5) years in this City, State or subdivision thereof or any other state or subdivision thereof or of the United States.
2. Solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence.

(Ord. 2010-03)

8-104 Special Regulations for Ice Cream Vendors. It shall be unlawful for any ice cream vendor to:

- A. Exceed a speed of twelve (12) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale;
- B. Make more than two stops in any one block to make any sale;
- C. Stop anywhere within twenty-five feet of an intersection when making a sale or attempting to make a sale;
- D. Double-park, or park in any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale;
- E. Make a U-turn on any block;
- F. Drive his vehicle backwards to make or attempt any sale;
- G. Sell to any person who is standing in the street;
- H. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants;
- I. Remain standing or stopped at any place for a period of time exceeding five (5) minutes;
- J. Sell or attempt to sell along any particular route more than one time during a twenty-four hour period;
- K. Sell or attempt to sell inside the following city parks:
 1. Ball Fields 309 West North Street.
 2. Aquatic Center 20900 Sycamore Drive.
 3. City Square Park 103 South Washington.

(Ord. 2010-03)

8-105 Duty of Police to Enforce. It shall be the duty of any police officer of the City to enforce the provisions of this chapter against any person found to be violating the same. (Ord. 2010-03)

8-106 Penalty.

A. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) for each offense or shall be imprisoned for a period not to exceed one hundred seventy nine (179) days, or shall be both so fined and imprisoned.

B. Each day any violation of this Code continues shall constitute a separate offense.

(Ord. 2010-03)

ARTICLE 2. CIRCUSES, CARNIVALS, STREET FAIRS

8-201. PERMIT REQUIRED. It is unlawful for any person, firm, partnership or corporation, other than the City of Spring Hill, to operate an exhibition of any product, merchandise or service for profit anywhere within the city, or to operate any carnival, circus, street fair or similar public performance or amusement enterprise providing any amusement rides, or dispensing of food and beverage within the city, without first securing a permit from the governing body for the operation of such exhibition, carnival, circus, amusement enterprise or street fair.

8-202. CERTIFICATE OF INSURANCE.

1. Coverage.
 - a) General liability including products/completed operations, broad form contractual, independent contractors and personal injury.
 - b) Automobile liability including all owned, non-owned, and hired vehicles.
2. Limits. Minimum:
 - a) each occurrence if amusement rides or other similar devices are used on the premises;
 - b) for each occurrence if amusement rides or other similar devices are not in use on the premises.

Liability insurance requirements may be modified or waived at the City's discretion upon approval by the Governing Body. A written application requesting deviation from the specific insurance requirements set forth in this article, in the form of a certificate of insurance evidencing the applicant's insurance coverage, must first be filed with the City Clerk who shall forward to the City's Risk Manager, who shall forward to the Governing Body his or her reasoning for any recommended modification or waiver, or denial thereof, prior to Governing Body action on the permit application.

If an excess liability policy is used to supplement the primary limits of protection, it must be issued on a "following forms" basis.

The City of Spring Hill, the sponsoring organization, and the owner of the premises being used to accommodate the amusement enterprise shall be named as "additional insureds" on all liability insuring agreements offered in compliance with this article.

The permittee, upon receipt of notice of any claim in connection with this permit, shall promptly notify the City with full details thereof including an estimate of the amount of loss or liability. The permittee shall promptly notify the City of any impairment or reduction of primary or excess coverage in excess of \$10,000 whether or not such impairment of liability came about in connection with this permit.

In the event, after notice of loss, the City shall determine that the permittee's aggregate coverage shall have been impaired or reduced to such an extent that the City shall determine such limits inadequate, the permittee shall upon notice from the City, promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City in a form satisfactory to the City.

The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) is licensed to do business in the State of Kansas;
- 2) carries a Best's policyholder rating of A or better; and
- 3) carries at least a Class X financial rating; or is a company mutually agreed upon by the City and the permittee.

8-203. INSPECTION REQUIRED. The permittee shall, prior to commencing operation of any carnival,

circus, amusement enterprise, or street fair, obtain a written statement from the City's Construction Inspector, stating that the enterprise has been inspected for basic electrical compliance. Such inspection shall in no way constitute a release of the enterprise from compliance with all pertinent City ordinances and regulations.

ARTICLE 3. ADULT BUSINESSES

8-301. DEFINITIONS. For the purpose of this Article the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

- A. **Adult:** A person who has attained the age of eighteen (18) years.
- B. **Adult Entertainment:** Any exhibition, dance, pantomime, modeling or other performance predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to, depiction or descriptions of "specified sexual activities" or "specified anatomical areas" (separately defined).
- C. **Adult Business Establishment:** Any establishment having as a material portion of its business the offering of entertainment, stocks in trade or materials, scenes or other presentations, predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to, depiction or descriptions of "specified sexual activities" or "specified anatomical areas" (separately defined). The definition of "adult business establishment" also includes but is not limited to any and all of the following specific adult businesses as defined herein:
 - 1) **Adult Arcade:** Means any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically, or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices, are maintained to show images on a regular or substantial basis, where the images so displayed relate to specified sexual activities or exhibition of specified anatomical areas.
 - 2) **Adult Encounter Parlor:** Means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees, performers, and/or other customers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual arousal or excitement to such customers.
 - 3) **Adult Entertainment Cabaret:** Means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female, impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or customer.
 - 4) **Adult Entertainment Studio (includes the terms "rap studio", "exotic dance studio", "sensitivity studio", or "encounter studio"):** Means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials of live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.
 - 5) **Adult Media Outlet:** See definition below.
 - 6) **Adult Motel:** Means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, videotapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six hours at a time.

- 7) Adult Motion Picture Theater: Means an enclosed building used for presenting or showing, for money consideration, movie or video films or pictures or other material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined) for observation by customers therein.
- 8) Adult Newsrack: Means any coin or card operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.
- 9) Adult Retail Establishment: Means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the material sold or rented in an “adult media outlet” as defined below, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”. For purposes of this subsection, the presumptions relative to what constitutes a “substantial or significant” portion of business set forth in the definition 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 term;
 - 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.

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 (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the City Clerk within fifteen (15) days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

- 10) Adult Theater: Means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by customers.
- 11) Bathroom: Means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
- 12) Body Painting Studio: Means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique, or process when the subject’s body displays for customer view specified anatomical areas.
- 13) Escort Bureau: Any person, business or agency which, for a fee, commission, hire, reward or profit, furnishes or offers to furnish escorts or persons who, for hire or reward, accompany others to or about social affairs, entertainment or places of amusement or who consort with others, for hire or reward, about any place of public resort or within any private quarters.

D. **Adult Media:** Magazines, books, videotapes, movies, slides, paraphernalia or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" (separately defined).

E. **Adult Media Outlet:** An establishment that rents, sells or offers for viewing or other use any adult media, and which meets at least one of the following tests:

For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of such items if any one or more of the following criteria are satisfied:

- 1) More than thirty percent (30%) of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public); or
- 2) More than thirty percent (30%) of the gross sales (including rentals) results from the sale or rental of adult media;
- 3) Thirty percent (30%) or more of the dollar value of all merchandise displayed at any time is attributable to adult media;
- 4) Thirty percent (30%) or more of all inventory consists of adult media at any time;
- 5) Thirty percent (30%) or more of the merchandise displayed for sale consists of adult media;
- 6) Thirty percent (30%) or more of the stock in trade consists of such items at any time.

F. **Booth:** A small enclosure that separates the occupant from patrons or customers.

G. **Contagious and Communicable Diseases:** Those diseases which are set out in the Kansas Department of Health and Environment Regulations, K.A.R. 28-1-16, as amended.

H. **Customer:** Any person who:

- 1) Is allowed to enter an adult business establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
- 2) Enters an adult entertainment establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
- 3) Is a member of or on the premises of an adult business establishment operating as a private club.

I. **Daycare Facility:** Any establishment that provides, on a regular basis, supervision, protection, and care for individuals on a regular basis away from their primary residences for less than 24 hours per day.

J. **Employee:** Any person who renders any service whatsoever to the customers of an adult business establishment or who works in or about an adult business establishment and who receives compensation for such service or work from the operator or owner of the business or from the customers therein. "Employee" includes, but is not limited to, managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult business establishment.

K. **Entertainer:** Any person who provides adult entertainment within an adult business establishment, whether or not a fee is charged or accepted for the entertainment.

L. **Erotic:** Devoted to or tending to arouse or excite sexual desires.

M. **Footcandle:** A unit of illumination lighting a surface, on which there is uniformly distributed a light flux of one lumen over an area of one square foot. A lumen is a unit of measure of the

quantity of light energy emitted by a light source without regard to the effectiveness of its distribution. A candela is the unit of intensity of a light source in a specific direction. One candela directed perpendicular to a surface one foot away generates one footcandle of light. A light source of one candela emits a total of 12.57 lumens. For the purposes of this Ordinance, the lumen output values shall be the initial lumen output ratings of a lamp.

- N. **Group Boarding Home for Adults:** Means a residential dwelling unit for six (6) or more persons, eighteen (18) years of age or over.
- O. **Group Boarding Home for Minors:** Means a residential facility for six (6) or more persons under eighteen (18) years of age who for various reasons cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation exists under license of the Kansas Secretary of Health and Environment.
- P. **Manager:** Any person who manages, directs, administers, or is in charge of the affairs of or conduct of any portion of any activity of any adult business.
- Q. **Minor:** A person less than eighteen (18) years of age.
- R. **Nudity:** Exposing any of the human male or female genitals, pubic hair, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering below a point immediately below the top of the areola, or the showing of the covered male genitals in a discernible turgid state.
- S. **Nursing Facility:** Means a building, or a group of buildings, where for compensation pursuant to the previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital.
- T. **Operate:** To own, conduct or maintain the affairs of an adult business establishment.
- U. **Operator:** Any person, partnership, or corporation operating, conducting or maintaining an adult business establishment.
- V. **Park:** Any public or private land designated for park or recreational activities but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness area, or similar land.
- W. **Person:** Any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity or other entity or group of persons however organized.
- X. **Religious Institution:** A structure or site such as a church, synagogue, chapel, sanctuary, or cathedral used primarily for religious activity or worship and related religious activities.
- Y. **Residential Zone:** Any property within the City which is zoned or used for residential purposes. The zoning designations refer to the sections in the Unified Zoning Ordinance as may be amended from time to time and include any property in the City which is zoned AG (Agricultural), RR (Rural Residential), R-1 (Single Family), RP-1 (Planned Single Family Residential), R-2 (Two Family) RP-2 (Planned Single Family Residential), RP-2 (Planned Two-Family Residential), R-3 (Multi-Family Townhome), RP-3 (Planned Multi-Family Townhome), R-4 (Multi-Family), RP-4 (Planned Multi-Family), and MH (Manufactured Home District).
- Z. **School:** Any institution of learning, whether public or private. This definition includes, but is not

limited to a nursery school, kindergarten, elementary school, junior high school, senior high school, college and university.

AA. Specified Anatomical Areas: These include:

- 1) Less than completely and opaque covered: human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
- 2) Human male genitals in a discernible turgid state, even if completely and opaque covered.

BB. Specified Sexual Activities:

Sexual conduct including but not limited to:

- 1) Human genitals in a state of stimulation or arousal; and/or
- 2) Acts of human masturbation, sexual intercourse or arousal; and/or
- 3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or
- 4) Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; and/or
- 5) Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
- 6) Fondling or other erotic touching of clothed or unclothed human genitals, pubic region, buttock, or female breast; and/or
- 7) Acts involving animals or latent objects.

(2001-16)

8-302. APPLICABILITY.

- A.** The establishment of any adult business establishment subject to these regulations shall include any of the following activities:
 - 1) The opening of such a business as a new business.
 - 2) The relocation of an adult business establishment.
 - 3) The conversion of an existing business to an adult business establishment.
 - 4) An increase of the square footage of an existing adult business establishment.
 - 5) The conversion of an existing adult business establishment to a different type of adult business establishment.
- B.** An adult business establishment existing prior to the effective date of this Ordinance shall:
 - 1) Submit an application for an adult business establishment license no later than the 14th day of October, 2001;
 - 2) Shall cease operations on the 14th day of July, 2002, unless it has secured, by that date, an adult business establishment license pursuant to this Ordinance; and
 - 3) Shall be subject to all other provisions of this Ordinance except Section 3-311 as of the 14th day of July, 2002.
- C.** Any adult business establishment existing prior to the effective date of this ordinance that does not comply with Section 30311 shall:
 - 1) Be deemed a non-conforming business; and
 - 2) Not be increased, enlarged, extended or altered except that such business may be changed to a conforming business.
- D.** An adult business establishment lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the granting or renewal of the adult business license, of a school, park, religious institution, group home, nursing facility, hospital, library or property zoned or used for residential purposes located within the City limits and within 1,000 feet of the adult business establishment. This provision applies only to the renewal of a valid adult business establishment license and does not apply when an application for a new business license is submitted after a previous license has lapsed or has been revoked.

(2001-16)

8-303. GENERAL REGULATIONS AND REQUIREMENTS.

- A. **Age Restriction.** Only adults as herein defined in Section 3-301 of this Article, shall be permitted on the premises of any adult business establishment. If alcoholic or cereal malt beverages are sold or served on the premises, only persons twenty-one (21) years of age or older may be permitted on the premises.
- B. **Hours of Operation.** It shall be unlawful for any adult business establishment to be conducted, operated or otherwise open to the public, customers or members between the hours of 12:00 midnight and 10:00 a.m., Monday through Saturday. No adult business establishment shall be open on any Sunday.
- C. **Exterior Display.** The premises of all adult business 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 exterior doorways must be constructed with an anteroom or foyer so as to prevent observation of the interior of the premises from the exterior of the building.
- D. **Nudity Prohibited.** No manager, employee, entertainer or customer in an adult business establishment shall be unclothed, nude or in such less-than-opaque and complete attire, costume or clothing, so as to expose to view any "specified anatomical area".
- E. **Protective Barrier Required.** Any adult business establishment engaging in the display or performance of live models, dancers, entertainers or other performers shall erect a platform at least two (2) feet above the primary level of the customer floor level on which the employee or entertainer must be contained; shall not permit customers within ten (10) feet of the employee or entertainer; and shall in addition erect a protective barrier from floor to ceiling, of sufficient strength to prevent customers from entering the area of the employee or entertainer or touching the employee or entertainer in any manner. Further, it shall be unlawful for any customer to be upon any portion of the stage during a performance or for an owner, operator, or manager to permit a customer to be upon any portion of the stage during the performance.
- F. **Erotic Touching Prohibited.** No employee, dancer, entertainer or customer of an adult business establishment shall be permitted to manually or through other bodily contact stimulate the genitals, pubic region, breasts or buttocks of themselves or any other person.
- G. **Display or Performance.** No adult business establishment shall permit any employee, entertainer, model, dancer, other performer or customer to participate in any entertainment, live display or performance which depicts, describes or simulates "specified sexual activities" or contains any acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- H. **Devices.** No employee, model, dancer, entertainer or other performer shall wear or use any device or covering exposed to view which stimulates any "specified anatomical area", nor shall any employee, model, dancer, entertainer or other performer or customer use artificial devices or inanimate objects to depict any of the prohibited activities described in this Article.
- I. **Entertainer Payment or Gratuity.** No model, dancer, entertainer or other performer while on the premises of an adult business establishment, shall solicit, demand or receive any payment or gratuity from any customer directly, rather all gratuities shall be placed in a permanently affixed receptacle provided for gratuities. No gratuity may be offered or accepted while a performance is being conducted.

- J. Lighting.** All adult business establishments, shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than two (2) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.
- K. Vending Machines Prohibited.** No coin or token operated vending machine which sells adult media may be located in a place open to the public, except that said machines are permitted in public places from which minors are excluded.
- L. Closed Booths or Rooms Prohibited.** The premises of all adult business establishments shall be physically arranged in such a manner that the entire interior portion of any booths, cubicles, rooms, or stalls is visible from a public common area of the premises.
- 1) Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.
 - 2) The entire body of any viewing person must also be visible from the public, common area, without the assistance of mirrors or other viewing aids.
 - 3) No booth shall be occupied by more than one customer at a time.
 - 4) No holes shall be permitted between booths or individual viewing areas.
- M. Identification Cards.** Any adult business employee issued a permit by the City Clerk under the provisions contained herein shall, at all times when working in an adult business establishment, have in such employee's possession a valid identification card issued by the City, bearing the permit number, the employee's physical description, and a photograph of such employee. Such identification card shall be laminated to prevent alteration.
- N. Ventilation and Sanitation Requirements.** The premises of all adult business establishments shall be kept in a sanitary condition. Separate dressing rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.
- O. Manager on Premises.**
- 1) A permitted manager shall be on duty at all adult business establishments at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.
 - 2) It shall be the responsibility of the manager to verify that every employee within any adult business establishment possesses a current and valid permit and have in their possession a current and valid identification card at all times while working.
- P. General Prohibitions.** No owner, operator, manager, or other person in charge of the premises of an adult business establishment shall:
- 1) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current liquor license as required by Chapter III;
 - 2) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
 - 3) Knowingly allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult business establishment of any person under the age of twenty-one (21) if alcohol or cereal malt beverages are sold;
 - 4) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by state law or City ordinance;
 - 5) Knowingly allow or permit a violation of this Article or applicable City ordinance; or
 - 6) Knowingly allow any entertainer, employee, manager, or operator to perform any work, service, or entertainment directly related to the operation of an unlicensed adult business.

Q. Facilities Necessary. No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the Chief Building Inspector, or his/her authorized representative, reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

- 1) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free of any accumulation of dust, dirt, or refuse. All equipment used in the business operating shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business 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.
- 2) Toilet facilities shall be provided in convenient locations. 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. Toilet facilities shall be designated as to the gender accommodated therein.
- 3) 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 Chief Building Inspector 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 or to preclude authorized inspection thereof. The Chief Building Inspector may recommend the issuance of a license contingent upon compliance with all requirements of this Section.

(2001-16)

8-304. NOTIFICATION REQUIREMENTS.

A. Signage. All adult businesses shall maintain on the premises a sign on which the upper-case letters shall be at least two (2) inches high, and lower-case letters shall be at least one (1) inch high, shall be conspicuously displayed in common area at the principal entrance to the adult entertainment establishment and shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED BY THE CITY OF SPRING HILL, KANSAS.

EMPLOYEES, MODELS, DANCERS AND ENTERTAINERS:

- **Are not permitted to engage in any type of sexual conduct on the premises, or to fondle or caress the breasts, pubic region, buttocks, or genitals of any employee, customer, or other entertainer or to permit any employee, customer or other entertainer to fondle or caress the breasts, pubic region, buttocks, or genitals of said entertainer;**
- **Are not permitted to solicit, demand or receive any payment or gratuity from any customer, except as follows: A gratuity may be placed in a permanently affixed receptacle provided for gratuities but not while a performance is being conducted.**
- **NO nudity is permitted; and**

Customers are:

- ***Not permitted to be upon a stage at any time.***
- ***Not permitted to caress or fondle the breasts, pubic region, buttocks, or genitals of any employee, server, entertainer, or customer or engage in solicitation for prostitution.***

(2001-16)

8-305. LICENSING AND PERMITTING REQUIREMENTS.

A. Adult Business Entertainment Establishment License Required. No person shall operate an adult business establishment without having first obtained an annual adult business license from the City Clerk. A separate license shall be required for each and every separate place of business conducted by any one applicant. Such permit shall be valid only from January 1st to December 31st. Every person obtaining an adult business license shall post such license in a conspicuous place and manner on the adult business establishment premises. The failure to post an adult business license in the manner required herein shall be prima facie evidence that the adult business does not have such a license. In addition, it shall be prima facie evidence that any entertainer, employee, manager, or owner who performs any business, service, or entertainment in an adult business in which an adult business license is not posted in the manner required herein has knowledge that such business is not licensed.

- 1) **License Application.** When making application to the City for an adult business establishment license, the applicant shall provide the following information which shall be signed by the applicant, verified, notarized and be accompanied by the license and classification fees:
 - a) The name, residence address, home telephone number, date and place of birth and social security number of the applicant and his relationship to the business;
 - b) The business name, address and telephone number of the establishment. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent;
 - c) The names, residence addresses, residence telephone numbers, social security numbers and dates of birth of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment;
 - d) The name, address and telephone number of the owner of the property at which the business will be located;
 - e) A description of the adult entertainment or similar business history of the applicant and of all partners and of all corporate officers and directors and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment previously operating in this or another city, county or state, where it has had a business, license revoked or suspended, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation;
 - f) A verified statement from the applicant, and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment that each such person has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs, as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled

substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances; and

- g) A full set of fingerprints and two (2) a photographs, to be taken by the Spring Hill Police Department, of the applicants and of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment;
- h) If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State; and
- i) On applications requesting a license or renewal of license to operate a bathhouse or body painting studio, the applicant shall provide for each employee, a health certificate from a duly licensed Kansas physician stating that within 30 days prior thereto, the applicant and all other person working on the premises have been examined and found free of any contagious or communicable disease. For each person who is subsequently employed, a health certificate shall be submitted to the City Clerk 48 hours prior to the time such person begins employment.

B. Employee Permit Required. All persons employed in an adult entertainment establishment, including managers or operators, must annually obtain an adult entertainment employee permit. This permit will be valid from January 1st until December 31st.

1) **Permit Application.** Any person desiring an adult entertainment employee permit shall provide the following information which shall be signed by the applicant, be verified, and notarized and be accompanied by the license and classification fees:

- a) The applicant's name, home address, home telephone number, date of birth, social security number, and any stage names or nicknames used in entertaining or performing;
- b) The name and address of each business at which the applicant intends to work as a manager, operator, employee or dancer, model, entertainer or other performer;
- c) A statement from the applicant that he or she has not been convicted of or diverted from prosecution of a felony, or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor or public offense, involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substance or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances;
- d) A full set of fingerprints and two (2) photographs taken by the Spring Hill Police Department; and
- e) The applicant shall provide documentation that he or she has attained the age of eighteen (18) years of age, or twenty-one (21) years of age if the adult business establishment in which the applicant will be working sells or serves alcoholic or cereal malt beverages. Any of the following shall be accepted as documentation of age:
 - 1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - 2) A state-issued identification card bearing the applicant's photograph and date of birth;
 - 3) An official and valid passport issued by the United States of America;
 - 4) An immigration card issued by the United States of America;
 - 5) Any other form of picture identification used by a governmental entity that is deemed reliable by the City Clerk; or
 - 6) Any other form of identification deemed reliable by the City Clerk.

- f) A statement signed under oath that the applicant has personal knowledge that the information in the permit application is true and correct and that the applicant has read the provisions of this ordinance regulating adult business establishments.

C. License classification and fees.

- 1) The application for a license shall be accompanied by payment in full of the fee stated herein by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid.
- 2) The classification of licenses and fees shall be as follows:
 - a) Adult business establishment license fee is \$300.00 per year;
 - b) Change of address fee for adult business establishment is \$10.00 per year;
 - c) Adult business employee permit application fee is \$100.00 per year;
 - d) Change of address for adult business employee permit is \$10.00 per year.

D. Application Processing. Upon receipt of an application for an adult business establishment license or adult business employee permit, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Chief Building Inspector.

It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license or permit. The Chief of Police shall report the results of the investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. It shall be the duty of the Chief Building Inspector to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Chief Building Inspector shall report the results of his/her investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police and Chief Building Inspector, the City Clerk shall determine if the license application meets the criteria for approval and shall issue a license if it does and deny the license if it does not.

E. Criteria for Approval. A license or permit shall be issued if the City finds that:

- 1) The business for which a license is required will be conducted in a building, structure and location which complies with the requirements and standards of the applicable zoning and building codes of the City (see Chapters IV and XVII), as well as the requirements of this Article; and
- 2) The applicant has not made any false, misleading or fraudulent statement of material fact in the application for a license or permit, or in any report or record which may be required to be filed with the City Clerk; and
- 3) That the applicant and all employees, agents, partners, directors, officers, or managers have attained the age of eighteen (18) years of age, or if the business for which the license or permit is required sells or serves alcoholic or cereal malt beverages, then the applicant and all employees, agents, partners, directors, officers or managers have attained the age of twenty-one (21) years of age; and
- 4) That the applicant, or any stockholder, partner, or member who owns more than 10% interest in such entity has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted or diverted from prosecution of a misdemeanor, or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor or public offense

involved sexual offenses, prostitution, indecent exposure, sexual abuse or a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances; and

- 5) That the applicant or any stockholder, partner, or member who owns more than 10% interest in such entity, has not had a license or permit issued under the provisions of this Article or another state, county or municipality's regulations governing adult entertainment or similar business revoked within five (5) years immediately preceding the application.

F. Disapproval of Application. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in District Court in a manner provided by law. Such appeal shall be filed within thirty (30) days of the final decision of the City Clerk. The action taken by the City Clerk to issue or to deny issuance of a license shall be final and subject to judicial review.

G. Suspension and Revocation of License. Whenever the City has information that:

- 1) The owner or operator of an adult entertainment establishment has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Article;
- 2) There has been recurrent violations of provisions of this Article that have occurred under such circumstances that the owner or operator of an adult business establishment knew or should have known that such violations were committed;
- 3) The adult business establishment license was obtained through false statements in the application for such license, or renewal thereof;
- 4) The adult business establishment failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
- 5) The owner or operator or any stockholder, partner, or member who owns more than 10% interest in such entity, has become disqualified from having a license by a conviction described in Subsection E of this Section, Criteria for Approval; or
- 6) Any cost or fee required to be paid by this Article is not paid; or
- 7) An operator employs anyone who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs as an entertainer without a permit.

then the City may upon five (5) days of posting notice on the adult entertainment establishment's principal entrance suspend the business' license for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the city clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the business and shall be served upon the licensee or by registered or certified mail to the licensee's last known business address. In the event that the City is not able to serve notice upon the licensee, any notice sent by mail is returned by the postal service, the City shall cause such notice to be posted at the principal entrance of the adult business establishment, and such posting shall be a valid means of service. If the city clerk finds and concludes from the evidence that the licensee has violated any of the above provisions, he/she may suspend, revoke or in the case of renewal application, refuse to renew such license. Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this ordinance, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

H. Suspension and Revocation of Permit. Whenever the City has information that:

- 1) The permittee has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Article;
- 2) There have been recurrent violations of provisions of this Article that have occurred under such circumstances that the permittee knew or should have known that such violations were committed;
- 3) The adult business employee permit was obtained through false statements in the application for such permit, or renewal thereof;
- 4) The permittee failed to make a complete disclosure of all information in the application for such permit, or renewal thereof;
- 5) The permittee has become disqualified from having a permit by a conviction or diversion described in subsection E of this Section, Criteria for Approval; or
- 6) The adult business establishment license for the business in which the permittee is working has been suspended or revoked.

then the City may, five (5) days after sending notice to the permittee such notice in the U.S. Mail to the home address provided on the permittee's application, suspend the permit for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the city clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the permittee and shall be served upon the permittee in person or by registered or certified mail to be address provided on the permittee's application.

In the event that the City is not able to serve notice upon the permittee in person, and any notice sent by mail is returned by the postal service, service shall still be considered valid. An appeal taken from an order of suspension shall not suspend the order of suspension during the pendency of any such appeal. If the City finds and concludes from the evidence that the permittee has violated any of the above provisions, it may suspend, revoke or in the case of renewal application, refuse to renew such permit. Following the entry of an order by the City Clerk suspending or revoking a permit issued pursuant to this ordinance, such permittee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

- I. Change of Address.** Any adult business establishment changing its address must reapply for an adult business establishment license and pay the appropriate license and classification fee. The application must be provided to the City Clerk's office prior to opening at the new location.

(2001-16)

8-306. TRANSFER OF PERMITS, LICENSES AND FEES.

- A.** Business licenses and employee permits are not transferable, and such authority as a license or permit confers shall be conferred only on the individual or business name therein.
- B.** Any applications made, fees paid, and licenses or permits obtained under any of the provisions of this Article, 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 ordinances of this City.
- C.** All adult business licenses shall be issued only for the one adult business use listed on the application. Any change in the type of adult use shall invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

(2001-16)

8-307. RENEWAL.

- A. A license or permit may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses and permits shall expire on December 31 of each calendar year, and renewal applications for such licenses and permits shall be submitted between December 16 and December 31.
- B. Upon timely application and review as provided for a new license or permit, a license or permit issued under the provisions of this ordinance shall be renewed by issuance of a new license or permit in the manner provided herein.
- C. If the application for renewal of license or permit is not made during the time provided herein, the expiration of such license or permit shall not be affected, and a new application shall be required.
- D. Following the entry of an order by the City Clerk disapproving the renewal application for a license or permit, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

(2001-16)

8-308. OPERATOR RESPONSIBILITY.

In addition to the other requirements set out in this Article the operator of an adult business establishment shall also have the following responsibilities:

- A. Every act or omission by an employee constituting a violation of the provisions of this Article shall be deemed an act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's failure to supervise the employee's conduct and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- B. The operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator for the purposes of determining whether the license for the adult business establishment shall be suspended, revoked or non-renewed.
- C. The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birth date, sex, weight, color of hair and eyes, phone numbers, Social Security number, date of employment, and termination, and duties of each employee.
- D. The above information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination. The operator shall make the register of employees available immediately upon demand of any law enforcement officer at all reasonable times.

(2001-16)

8-309. INSPECTIONS.

- A. Any duly organized officer of the City, including but not limited to Police officers, Code Enforcement officers, Planning and Development employees, Fire Department officials may from time to time make an inspection of each adult business establishment for the purposes of determining that the provisions of this Article are complied with. Such inspections shall be at reasonable times and in a reasonable manner. It shall be unlawful for anyone to fail to allow such officer immediate access to the premises or to hinder such officer in any manner.
- B. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, videotapes, compact discs, motion pictures, films or other 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 by only those business records necessary for the limited purpose of determining whether

such business enterprise is an “adult business establishment” as defined herein. This 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 business. (2001-16)

8-310. REGULATIONS.

The City Administrator shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of this Article and which are not inconsistent with the provisions of this Article.

(2001-16)

8-311. LOCATION AND DISTANCE REQUIREMENTS (Repealed by Ord. 2005-16)

8-312. PENALTIES.

- A.** Any person who violates the provisions of this Article shall be guilty of a municipal offense and, upon conviction, shall be punished by fine of not less than One Hundred Dollars (\$100.00) but no more than Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) or by imprisonment for not more than one (1) year, or shall be both so fined and imprisoned. In addition, any violation of this Article shall be grounds for the City Clerk to revoke any or all licenses or permits issued by the City.
- B.** Each violation of this Ordinance shall be considered a separate offense, and any violation continuing more than one (1) day of time shall be considered a separate offense for each day of violation.
- C.** The conduct of any business within the City in violation of any of the terms of this Article is hereby found and declared to be a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and enjoinder thereof, in the manner provided by law, and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such adult business establishment and restrain and enjoin any person from conducting, operating, or maintaining an adult business establishment contrary to the provisions of this Article.

(2001-16)

ARTICLE 4. GARAGE SALES, YARD SALES, BASEMENT SALES, PORCH SALES

8-401. GARAGE SALES, YARD SALES, BASEMENT SALES, PORCH SALES. The sale of merchandise at garage sales, yard sales, basement sales and porch sales shall be permitted, provided that such sales shall not be for a period of more than three consecutive days, nor shall such sales be held more than four (4) times per calendar year at the same location.

8-402. GENERAL PENALTY PROVISIONS. Violations of any of the provisions of this ordinance shall be subject to the general penalty provisions of Section 1-1101 and amendments thereto, of the Spring Hill Municipal Code. (Ord. 2008-03)

ARTICLE 5. MASSAGE THERAPY

- 8-501 Definitions.
- 8-502 License Required.
- 8-503 Employee License Required.
- 8-504 Limitation of On-Site Massage Therapy Licenses.
- 8-505 Application for Business License Fees.
- 8-506 Application for Employee License Fees.
- 8-507 Education Requirements--Massage Therapist.
- 8-508 Issuance of Business License.

- 8-509 Issuance of Employee License.
- 8-510 Revocation or Suspension of Business License.
- 8-511 Revocation of Employee License.
- 8-512 Facilities Necessary.
- 8-513 Inspections, Immediate Right of Entry.
- 8-514 Operation Regulations.
- 8-515 Supervision.
- 8-516 Employee and Patron Registers.
- 8-517 Persons Under Age Eighteen Years Old and Prohibited Services.
- 8-518 Advertising.
- 8-519 Transfer of Licenses, Other licenses and Fees.
- 8-520 Applicability to Existing Businesses.
- 8-521 Exceptions.
- 8-522 Further Regulations.
- 8-523 Restriction of Business to Premises.
- 8-524 Penalty.

8-501. Definitions.

- a. "Business premises" means those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.
 - b. "Employee" refers to any person, other than massage therapists, who renders any service to a licensee under this Article, who receives compensation from the licensee or patron.
 - c. "Health officer" means any city employee or employees designated by the city administrator to enforce and administrate the provisions of this Article.
 - d. "On-site massage therapy." Massage that is conducted on the business premises of a massage patron and is limited to massage therapy applied only above the massage patron's waist. The patron must be fully clothed.
 - e. "On-site massage therapy establishment" means any establishment engaged in on-site massage therapy for compensation.
 - f. "Massage" means any method which may include but not specifically limited to stroking, kneading, tapping, compression, vibration, rocking, friction, pressure, and those techniques based on manipulation or the application of pressure to the muscular structure or soft tissues of the human body, which may also include non-forceful passive or active movement and/or the application of techniques intended to affect the energetic systems of the body. The use of oils, lotions, powders, or other lubricants may also be included.
 - g. "Massage therapy establishment" means any establishment having a place of business where any person, firm, partnership, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in Article 8.501(f) for compensation.
 - h. "Massage Therapist" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in Article 8.501(f).
 - i. "Patron" means any person over eighteen years of age who utilizes or receives the services of any establishment subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor, provided a person under the age of eighteen may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.
 - j. "Healing Arts Practitioner" shall be defined by the provisions of K.S.A.65-2801, et. seq.
- (Ord. 2000-20)

8-502. License Required. No person, firm, partnership, association or corporation shall operate a massage therapy establishment or an on-site massage therapy establishment, as defined in Section 8.501, without first having obtained a license therefor issued by the Governing Body of this city. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license shall be valid for a period of twelve months from the date of issuance; provided individuals conducting on-site massage therapy as defined in this chapter shall be required to hold only one license; and provided further that individuals conducting "massage" on permanent premises in

addition to providing on-site massage therapy must hold a separate license for on-site massage therapy and for massage therapy establishment conducted on permanent premises. (Ord. 2000-20)

8-503. Employee License Required. No person shall be employed as a massage therapist in any establishment subject to the provisions of this Article, unless he or she has a valid employee's license issued by the city pursuant to the provisions of this Article. (Ord. 2000-20)

8-504. Limitation on On-site Massage Therapy Licenses. The authority granted a licensee issued an on-site massage therapy license is limited to the authority to conduct massage therapy on the non-permanent business premises of the licensee's patrons and specifically does not include the authority to conduct massage therapy at a permanent premises operated by the licensee; provided the licensee must have a permanent business office located within the city. If the licensee desires to conduct massage therapy both on the non-permanent business premise of the licensee patrons and a permanent premises operated by the licensee, the applicant must obtain a separate license for "on-site massage therapy" and a "massage therapy establishment" license by submitting separate applications for each, provided that only one licensee fee shall be charged for both applications. (Ord. 2000-20)

8-505. Application for Business License--Fees.

- a. Every applicant for a license to maintain, operate or conduct a massage therapy or on-site massage therapy establishment shall file an application with the chief of police and pay a fee of Twenty-five (\$25.00) which shall not be refundable or prorated.
- b. The application for a license to operate such establishments 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 ten percent of the stock of the corporation, any partner, when a partnership is involved, and any manager.
- c. In addition to the foregoing, any applicant for a license shall furnish the following information:
 1. Written proof that the applicant is at least eighteen years old;
 2. Applicant's weight, height, color of hair and eyes;
 3. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application;
 4. The massage therapy and on-site therapy establishment business license history of the applicant; 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 or occupation subsequent to such action of suspension or revocation;
 5. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof;
 6. In the case of applicants who intend personally to provide on-site massage therapy or massage therapy, the applicant must also apply for and receive a massage therapist license as provided for in Section 8.502.
 7. Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
- d. Upon submission of a request for renewal on a form provided by the city, and a fee of \$25.00, an expiring business license for an establishment may be renewed by the chief of police if there has been no change in ownership. The renewal form will contain a notarized statement that there have been no criminal convictions, except minor traffic violations, within the preceding twelve months.

(Ord. 2000-20)

8-506. Application for Employee Licenses--Fees.

- a. Any person employed to perform any services in a massage therapy establishment or on-site massage therapy establishment as defined in Section 8-501, shall file a written application with the chief of police and pay a filing fee of Five Dollars (\$5.00) which shall not be refundable or prorated.

- b. The application for an employee license shall contain the following:
 1. Name, address, and telephone number;
 2. Name, address, and telephone number of employing establishment;
 3. Applicant's weight, height, color of hair and eyes;
 4. Written evidence that the applicant is at least eighteen years old;
 5. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application;
 6. Whether such person has ever been convicted of any crime except minor traffic violations. If any persons mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction;
 7. The position or function the applicant is being hired to perform within such establishment;
 8. Authorization for the city, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
- c. Upon submission of a request for renewal, on a form provided by the city, and a fee of Five Dollars (\$5.00), an expiring employee license may be renewed by the chief of police. The renewal request will contain a notarized statement that the applicant has not been convicted of any crime except minor traffic violations, within the preceding twelve months.

(Ord. 2000-20)

8-507. Education Requirements--Massage Therapist. Any person, including an applicant for a massage therapy establishment license, who engages or intends to engage in the practice of massage as defined in Section 8.501 must present proof of completion of educational and training requirements, equivalent to 500 hours, which shall be by certified transcripts. The educational and training requirements required by this chapter shall not be limited to one school. (Ord. 2000-20)

8-508. Issuance of Business License. After the filing of an application in the proper form, the Governing Body shall examine the application, and after such examination, shall issue a license for a massage therapy establishment or on-site massage therapy establishment, unless the Governing Body finds that:

- a. The correct license 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 ten 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 license 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 license application or in any document required by the city in conjunction therewith;
- e. The applicant has had a massage therapy establishment, on-site massage therapy establishment, 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 eighteen years; and
- g. The manager or other person principally in charge of the operation of the business would be ineligible to receive a license under the provisions of this Article.

Any license issued under the provisions of this Article shall at all times be displayed by the licensee in an

open and conspicuous place on the premises where the licensed business is conducted.
(Ord. 2000-20)

8-509. Issuance of Employee License. The chief of police shall issue an employee license within twenty-one days following application, unless he finds that:

- a. The applicant for the employee license has been convicted of;
 1. a felony;
 2. an offense involving sexual misconduct with children;
 3. obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering;
- b. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the city in conjunction therewith;
- c. That the correct license fee has not been tendered to the city, and in the case of a check or bank draft, honored with payment upon presentation;
- d. In the case of a massage therapist 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.

(Ord. 2000-20)

8-510. Revocation or Suspension of Business License.

- a. Any license issued for a massage therapy establishment or on-site massage therapy establishment 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 licensee or any employee of the licensee, including a massage therapist, has been convicted of any offense found in Sections 8.508 and 8.509 and the licensee has actual or constructive knowledge of the violation or conviction, or in any case, where the licensee refuses to permit any duly authorized police officer or health officer of the city to inspect the premises or the operations therein.
- b. The Governing Body, before revoking or suspending any license, shall give the licensee at least ten days' written notice of the charges against licensee and the opportunity for a public hearing before the Governing Body, at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. The decision of the Governing Body shall be final.

(Ord. 2000-20)

8-511. Revocation of Employee License.

- a. An employee license issued by the chief of police shall be revoked or suspended after a public hearing before the chief of police, or his designated representative, where it appears that the employee has been convicted of any offense enumerated in Section 8.509.
- b. The chief of police, before revoking or suspending any employee license, shall give the employee at least ten days' written notice of the examination into his conviction record and the opportunity for a public hearing before the chief of police or his designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.
- c. All revocations or suspensions by the chief of police are appealable to the Governing Body within 10 days of the revocation or suspension, provided said appeal must be in writing and delivered to the city clerk. The decision of the Governing Body shall be final.

(Ord. 2000-20)

8-512. Facilities Necessary. No license to conduct a massage therapy establishment shall be issued unless an inspection by the health officer or his 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 and supplies used in the business' operation shall be maintained in a clean and sanitary condition.
- b. Toilet facilities shall be provided in convenient locations.
- c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The health officer 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 in this section shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

(Ord. 2000-20)

8-513. Inspections, Immediate Right of Entry. The police department or health department may from time to time make an inspection of each licensed 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 licensee 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 licensee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license. (Ord. 2000-20)

8-514. Operation Regulations. The operation of any massage therapy establishment shall be subject to the following regulations:

- a. Hours. Such business shall be closed and operations shall cease between the hours of twelve midnight and six a.m. Hours of operation for on-site massage therapy may be extended for on-site therapy conducted on premises having bona fide evening and night shifts.
- b. Separation of Sexes. It is unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time. This provision is not applicable to on-site massage therapy establishments.
- c. Danger to Safety, Health. No service shall be given which is clearly dangerous or harmful, in the opinion of the health officer, to the safety or health of any person, and, after such notice in writing to the licensee from such officer.
- 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 licensed under the provisions of this chapter or during on-site massage therapy.
- e. Conduct of Premises. All operators licensed under the provisions of this Article shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or any of his employees which constitutes a violation of the provisions of this Article. Any violation of the city, state, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or license may be grounds for suspension or revocation of same.
- f. Every portion of a licensed establishment, including appliances and supplies, and personnel shall be kept clean and operated in a sanitary condition.

(Ord. 2000-20)

8-515. Supervision. A licensee of a massage therapy establishment shall have the premises supervised at all times when open for business. Any massage therapy establishment rendering massage services shall have one person who qualifies as a massage therapist on the premises at all times while the establishment is open. The licensee 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 licensee shall constitute a violation by the licensee. (Ord. 2000-20)

8-516. Employee and Patron Registers.

- a. All operators of a massage therapy establishment licensed 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 license 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 massage therapy or on-site massage therapy establishment shall keep a daily register, approved as to form by the police department, of all patrons, with names and addresses. 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.

(Ord. 2000-20)

8-517. Under Age Eighteen Years and Prohibited Services. No licensee shall perform or permit any massage therapy to be provided to a person under the age of eighteen, provided a person under the age of eighteen may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing. (Ord. 2000-20)

8-518. Advertising. No establishment granted a license under provisions of this chapter 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 8.501, or that employees or massage therapists are dressed in any manner other than described in Section 8.515, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in Section 8.501. (Ord. 2000-20)

8-519. Transfer of Licenses, Other Licenses and Fees.

- a. No massage therapy business, on-site massage therapy, or employee licenses are transferable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.
- b. Any applications made, fees paid, and licenses obtained under the provisions of this chapter shall be in addition to and not in lieu of any other fees, licenses, or licenses required to be paid or obtained under any other ordinances of this city.

(Ord. 2000-20)

8-520. Applicability to Existing Businesses. The massage therapists/operators of any existing, licensed massage therapy establishment are exempted from the educational requirements; provided that the establishment remains licensed continuously. (Ord. 2000-20)

8-521. Exceptions. The provisions of this chapter 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 chapter apply to barbers or cosmetologists, as prescribed under K.S.A. 65-1901d, lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Ord. 2000-20)

8-522. Further Regulations. The chief of police or the health officer may make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this chapter. (Ord. 2000-20)

8-523. Restriction of Business to Premises.

- a. All massage therapy (not to include on-site massage therapy) provided for under this Article shall be conducted on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:
 - 1. If performed under the direction of a licensed healing arts practitioner; or
 - 2. If performed at the written request of a person. All such written requests shall be kept by the licensed massage therapy establishment for a period of one year and shall be produced for inspection when requested by any city official. Private residence massage therapy shall not be conducted between the hours of 12:00 a.m. and 6:00 a.m.
- b. All licensed massage therapy establishments shall be operated from a commercial business premise. Operation of such an establishment in a private home, residence, or non-commercial business establishment is prohibited. Sole practitioners (therapists who work alone), are required to have both a massage therapist license and massage therapy establishment license and to work from a commercial business premise.
- c. Massage therapy is not permitted in the guest room of hotels unless the hotel or motel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel or motel.

(Ord. 2000-20)

8-524. Penalty. Any person, firm, partnership, association or corporation convicted of violating any of the provisions of this Article shall be deemed guilty of a public offense and shall be fined not less than five dollars nor more than five hundred dollars for each offense, or shall be imprisoned for a period not to exceed ninety days, or shall be both fined or imprisoned. A separate offense shall be deemed committed on each day during or which a violation occurs. (Ord. 2000-20)