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**Article 1 AUCTIONS AND AUCTION SALES**

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**Section 3.1.1 Auctions and Auction Sales**

It is unlawful for any person to conduct or carry on any auction or auction sale wherein furniture, household goods or other personal or real property are sold or offered for sale at public auction within the corporate limits of the City of Bel Aire, Kansas without the owner or auctioneer of such furniture, household goods or other personal or real property having first filed with the City Clerk an inventory of such goods to be sold, received a permit from the City Clerk or the City Clerk's designee for the purpose of carrying on such auction or auction sale, complied with all the applicable provisions of this Code and paid the required permit fee. (Ord. 379)

**Section 3.1.2 Auctions and Auction Sales Permit**

Only one permit to conduct or carry on an auction or auction sale pursuant to this Code may be issued during a twelve (12) month period for any address within the corporate limits of the City of Bel Aire, Kansas. (Ord. 379)

**Section 3.1.3 Auctions and Auction Sales Bond**

Every applicant for a permit to conduct or carry on any auction or auction sale pursuant to this Code shall execute and file with the City Clerk a good and sufficient bond in the sum of two thousand five hundred dollars with a surety thereon which is a surety company authorized to do business in the state, which bond shall be approved by the City Attorney and shall be conditioned upon faithful observance of all the provisions of the permit and this Code. Said bond shall also indemnify any purchaser at such public auction who suffers any loss by reason of misrepresentation in the sale. The bond shall continue in effect until the expiration of the statute of limitations on all claims secured by the bond. Any purchaser claiming to have been damaged by misrepresentation in the auction sale may maintain an action at law against the person making such misrepresentations and may join as party defendant the surety on the bond as herein provided. (Ord. 379)

**Section 3.1.4 Auctions and Auction Sales Hours**

No auction or auction sale as permitted by this Code shall be held or open for business between the hours of 6:00 p.m. and 8:00 a.m. of the following morning. (Ord. 379)

**Section 3.1.5 Auctions and Auction Sales Bidding**

At any auction or auction sale as permitted by this Code, no person shall act or employ another to act as a buy bidder, or what is commonly known as a booster, or to make or accept any false or misleading bid or falsely pretend to buy or sell any article sold or offered for sale at any auction. (Ord. 379)

**Article 2 GARAGE AND MISCELLANEOUS SALES**

<b>Section 3.2.1</b>	<b>Miscellaneous Sales Permit</b>
<b>Section 3.2.2</b>	<b>Non-seasonal Miscellaneous Sales</b>
<b>Section 3.2.3</b>	<b>Seasonal Miscellaneous Sales</b>
<b>Section 3.2.4</b>	<b>Penalty</b>

**Section 3.2.1 Miscellaneous Sales Permit**

No person or entity shall conduct, hold or transact a miscellaneous sale upon a residentially zoned property, including a garage sale, yard sale, estate sale, rummage sale, etc. within the City without having first obtained a sale-from-residence permit from the city clerk. (Ord. 379)

**Section 3.2.2 Non-seasonal Miscellaneous Sales**

For all miscellaneous sales other than those limited exclusively to the sale of Christmas trees and decorations, only two sales per calendar year shall be permitted for any address and no more than one sale for any address shall be permitted within any six-month period. Each sale shall be limited to three consecutive days; provided, however, that schools, churches, and nonprofit organizations may conduct such sales with no restriction on the duration of the same when such sale is conducted for the sole benefit of such school, church or nonprofit organization, is conducted on school, church or commercial property, wholly by members of any such entity. (Ord. 379)

**Section 3.2.3 Seasonal Miscellaneous Sales**

For miscellaneous sales limited exclusively to the sale of Christmas trees and decorations, such sales shall be permitted only during the months of November and December. All such sales shall be conducted only between the hours of 8:00 a.m. and 10:00 p.m. and the site shall be maintained in a clean and orderly condition. All temporary fences, signs, fixtures, structures, material and equipment associated with such sales shall be removed from the site within ten days following the conclusion of the sale. (Ord. 379)

### **Section 3.2.4**

### **Enforcement and Penalty**

**Immediate Closure of Sale.** Any sale held in violation of this Article shall be immediately shut down by action of the Chief of Police or the Code Enforcement Officer, or their designee.

**Prosecution in Municipal Court.** When the Code Enforcement Officer determines that the property owner or lessee has failed to remove and abate the violation within the time set forth in the administrative notice, or has allowed the violation to reoccur within twelve months of the initial notice of violation, the officer may file a complaint in the municipal court of the city against such person alleging a violation of this section. If a complaint is filed against a lessee, a copy of the complaint shall be forwarded to the property owner.

**Penalty.** When the Code Enforcement Officer determines that the property owner or lessee has failed to remove and abate the violation within the time set forth in the administrative notice, or has allowed the violation to reoccur within twelve months of the initial notice of violation, the officer may file a complaint in the municipal court of the city against such person alleging a violation of this section. If a complaint is filed against a lessee, a copy of the complaint shall be forwarded to the property owner

### **Section 3.2.5**

### **Continuing Violation**

Each day that any violation of this Article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

## **Article 3 TRANSIENT MERCHANT, SOLICITOR OR PEDDLER**

### **Section 3.3.1 Permit Required**

### **Section 3.3.2 Permit Application**

### **Section 3.3.3 Permit Fee**

### **Section 3.3.4 Permit Investigation**

### **Section 3.3.5 Permit Denial Appeal**

### **Section 3.3.6 Permit Renewal**

### **Section 3.3.7 Regulations**

### **Section 3.3.8 Permit Suspension and Revocation**

### **Section 3.3.9 Enforcement and Penalty**

### **Section 3.3.1**

### **Permit Required**

It is unlawful for any transient merchant, solicitor or peddler as defined herein to engage in such business within the corporate limits of the City of Bel Aire without first obtaining a permit in compliance with the provisions of this ordinance unless specifically excluded from the permit requirement as follows. No permit shall be required for any transient merchant, solicitor or peddler under the following conditions:

1. For wholesale sales to retail merchants by commercial selling agents in the usual course of business.
2. For sales or displays at fairs, festivals or shows operated primarily for amusement, entertainment, recreation or education.
3. For sales or displays at public sales or shows of crafts or items made by hand and sold, offered for sale, or displayed by the individual making such crafts or handmade items.
4. For garage sales held on premises which are devoted to residential use which are regulated by another provision of the City's Municipal Code.
5. For persons soliciting for a charitable contribution, as long as the person soliciting charitable funds submits a letter to the City Clerk identifying the recipient of the funds, fund raising methods and the dates during which the funds will be collected.
6. For persons advertising or offering goods, wares, merchandise or services by the hanging of any flyer or handbill on any residence or business door provided that no contact or attempt at physical or verbal contact is made.
7. For persons advertising or offering goods, wares, merchandise or services by placing flyers or handbills on vehicles, however, in lieu of a permit, persons distributing handbills on private property must obtain prior permission of the property owner. In addition, persons placing the flyers or handbills are subject to .
8. For federal, state, county or city census takers or political candidates or their agents.
9. For advertisements and solicitations delivered by the United States Post Office and newspapers.
10. For persons distributing information for noncommercial purposes or proselytizing, poll-taking or other similar activity for noncommercial purposes. (Ord. 347)

### **Section 3.3.2 Permit Application**

Applicants for a transient merchant, solicitor or peddler permit under this Code must file with the City Clerk a sworn application, in writing, on a form which will be furnished by the City Clerk, giving the following information:

1. The name, age and physical description of the applicant.
2. The permanent home address and full local address of the applicant, including the length of residence at each address.
3. A brief description of the nature of the business and the goods to be sold.
4. The name and address of the employer, person, firm, corporation or association with whom the applicant is employed or whom the applicant represents and the

length of time of such service or representation, together with any credentials establishing the exact relationship.

5. The length of time for which the right to sell, solicit or peddle is desired.
6. A statement that the applicant understands and agrees that if a permit is granted, it will not be used or represented in any way as an endorsement by the City of Bel Aire or by any department or officer of the City.
7. A statement that the applicant has not been convicted of a felony, misdemeanor or violation of this Code involving force, threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude, or the violation of any law regulating the act of selling, soliciting or peddling within the past five years in this state or any other state or subdivision thereof or of the United States.
8. A statement as to whether or not the applicant has ever had a solicitation permit or registration revoked or suspended under this Code or the ordinances of the City of Bel Aire or any other city.
9. A photograph of the applicant showing the head and shoulders of the applicant in a clear and distinguishing manner taken within sixty days prior to the date of filing the application, or a copy of the applicant's driver's license.
10. A description of the motor vehicle, including the make, model, year, color and registration number if a motor vehicle will be used in the business.
11. In the case of a Transient Merchant, a description of the building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, to be used for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction and how such use complies with existing zoning and business regulations of the City of Bel Aire.
12. A statement, made under oath, by the applicant which attests to the truthfulness of all information contained in the application. (Ord. 347)

### **Section 3.3.3 Permit Fee**

Applicants for a transient merchant, solicitor or peddler permit under this Code shall pay a non-refundable permit fee to the City Clerk at the time the application is filed. (Ord. 347)

### **Section 3.3.4 Permit Investigation**

The provisions relating to the investigation of the applicant and the issuance of the permit shall be as follows:

1. The City shall not issue a transient merchant, peddlers or solicitor's permit to any person who, within the five years immediately preceding the date of filing an application for the permit, has been convicted of a felony, misdemeanor or other violation of the laws of the United States or any state or city of the United States where such conviction was for an offense involving force, threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude or where

such conviction was for violation of the criminal solicitation provisions of this Code or an ordinance of any other city. If, as a result the investigation of the facts or statements made in the application, it is determined that the applicant has been convicted within the past five years of an offense which would make the applicant ineligible to obtain a permit, or the facts stated in the application are found to be untrue, the City Clerk shall notify the applicant that the application is disapproved and that no permit will be issued.

2. If the investigation of an applicant discloses that the facts stated in the application are satisfactory and true, the City Clerk shall immediately issue a permit to the applicant to engage in the selling, soliciting or peddling described in the application. (Ord. 347)

### **Section 3.3.5 Permit Denial Appeal**

1. Upon the city's denial of a transient merchant, solicitor or peddler permit, the applicant shall have the right to appeal such action within fourteen days of the denial being mailed to the applicant's address as shown on the permit application form, or to the applicant's last known address.

2. The appeal must be in the form of a written request, setting forth the grounds for the appeal, which shall be filed with the City Clerk.

3. The City Clerk shall schedule the appeal hearing to take place during the next ten days, before the City Manager. Notice of the appeal hearing shall be given to the appellant in the same manner as provided for in the mailing of the notice of permit denial.

4. The decision of the City Manager on the appeal shall be final and binding on all parties. (Ord. 347)

### **Section 3.3.6 Permit Renewal**

Unless revoked or suspended prior to expiration, permits issued under this ordinance shall be valid for thirty days except for transient merchant and ice cream street vending permits which shall be valid for ninety days. A new application and permit fee will be required any time a permit expires. (Ord. 347)

### **Section 3.3.7 Regulations**

1. It is unlawful for any transient merchant, solicitor or peddler to engage in such business within the corporate city limits without first obtaining a permit.
2. It is unlawful for any person to sell, solicit or peddle prior to 9:00 a.m. or after 8:00 p.m. on any day of the week.
3. It is unlawful for any person to ring a bell, knock on a door, or otherwise attempt to gain admittance for the purpose of selling, soliciting or peddling at a residence dwelling at which a sign bearing the words "No Solicitors," or "No Trespassers," or words of similar import indicating that such persons are not wanted on the premises, is either painted, affixed or otherwise exposed to public view. This

subsection shall not apply to any solicitor or peddler who gains admittance to such a residence at the invitation or with the consent of the occupants thereof.

4. It is unlawful for any person to sell or offer for sale goods, wares, or merchandise from vehicles on any public street of the city; provided, that this prohibition shall not include deliveries of goods, wares, merchandise or foods made on a regular route to regular customers. This prohibition shall also not include ice cream vending with a valid permit issued pursuant to this ordinance.
5. It is unlawful for any person to shout, make any outcry, blow a horn, ring a bell or use any sound device or musical instruments, make any loud speaking radio or sound amplifying system, on any streets, alleys, parks or other public places of the city or on any private premises in the city where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard on the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, merchandise which such person holding the permit proposes to sell; however, this section shall not apply to ice cream vendors.
6. It is unlawful for any person to engage in selling, soliciting or peddling upon any premises or in any dwelling, house, apartment, or other residence after having been asked by the owner or occupant thereof to leave the premises or residence.
7. It is unlawful for any person to make more than one call at the same residential premises for identical goods, services, or contributions, within any consecutive thirty-day period, without receiving a prior invitation from the occupants of the premises. This provision shall be construed to include solicitation or peddling upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the said thirty day period without a prior invitation as provided herein.
8. It is unlawful for any person to sell, solicit or peddle 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 to adequate access to fire, police or sanitation vehicles.
9. It is unlawful for any transient merchant, solicitor or peddler to fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars in cash or tangible property. Such receipt shall be signed by the person making the sale and shall briefly describe the goods or services sold and state the purchase price, amount of cash payment, if any, the balance due and the terms of payment.
10. It is unlawful for any transient merchant, solicitor or peddler to fail to disclose to the prospective buyer or donor his or her name and the name of the company, product or organization he or she represents at the outset of the initial conversation.
11. It is unlawful for any person to make any assertion, representation or statement which misrepresents the purpose of the call, or use any plan or scheme which misrepresents such purpose.

12. It is unlawful for any person to use or represent a permit issued pursuant to this ordinance as an endorsement by the City of Bel Aire or by any department or officer of the City of Bel Aire.
13. It is unlawful for any person to sell or solicit or attempt to sell or solicit or peddle at a place of residence at any entrance other than the main entrance of the residence.
  14. It is unlawful for any person to loan, transfer, or allow in any manner another person the use of a solicitor permit.
  15. It is unlawful for any person to sell or solicit or attempt to sell or solicit or peddle without carrying a valid permit and exhibiting it upon request of any resident or officer of the City of Bel Aire. (Ord. 347)

### **Section 3.3.8 Permit Suspension and Revocation**

Upon complaint and good cause, the Chief of Police is authorized to suspend any permit issued under this ordinance for up to ten days, until a hearing by the City Manager. The City Manager, upon hearing of the matter, with notice to the person holding the permit, at his or her last known address, affording the person holding the permit an opportunity to be heard, may permanently revoke or cancel such permit or terminate the suspension and order a return of the permit. (Ord. 347)

### **Section 3.3.9 Enforcement and Penalty**

- A. **Immediate Closure of Sale.** Any transient merchant selling in violation of this Article shall be immediately shut down by action of a law enforcement officer or the Code Enforcement Officer, or their designee.
- B. **Prosecution in Municipal Court.** Any law enforcement officer of the City or the Code Enforcement Officer may issue a citation to any individual who has acted in violation of a provision of this Article.
- C. **Penalty.** The Municipal Court may issue a penalty for violation of any provision of this Article in conformance with the General Penalty Provisions as set forth in Chapter 1 of this Municipal Code.

**Section 3.2.5 Continuing Violation.** Each day that any violation of this Article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

## **Article 4 BUSINESS LICENSES**

### **Section 3.4.1 Business Registration and Permit to Operate Required**

### **Section 3.4.2 Information Provided**

### **Section 3.4.3 Inspection**



- Section 3.4.4 Registration Certificate**
- Section 3.4.5 Term of Registration**
- Section 3.4.6 Denial, Revocation, and Restriction**
- Section 3.4.7 Emergency Suspension and/or Revocation of Permit**
- Section 3.4.8 Appeal**
- Section 3.4.9 Hearing**

**Section 3.4.1 Business Registration and Permit To Operate Required**

Every person, firm, entity, association or corporation now or hereafter doing business in the corporate limits of the City of Bel Aire and/or maintaining an office, retail, wholesale outlet, fixed site where a specific service is located, or business address or location, shall annually register such business in conformance with this Code, and shall maintain a valid permit to operate issued by the City of Bel Aire.

- (a) It is unlawful for any person, whether as principal, officer, agent, servant, licensee, permit holder, or employee:
  - (1) To conduct, pursue, carry on or operate within the corporate limits of the city any calling, trade, profession, business or occupation without having first determined that such business is appropriately registered with the City and has a current valid permit to operate issued by the City pursuant to this Code;
  - (2) To fail to comply with all of the regulations provided in this title.
- (b) A Business Registration and Permit to Operate (Permit) is a document issued annually by the City upon initial approval of an application issued pursuant to this Article, and continued annual compliance with this Article.

**Section 3.4.2 Information Provided**

The application for registration of business and permit to operate shall include furnishing to the City Clerk the following information on an approved form provided by the City Clerk:

- (a) Nature of the business;
- (b) Location of the business;
- (c) Business phone number;
- (d) The owner's and/or manager's home address and phone number;
- (e) Approximate square footage of floor space in the business;
- (f) A listing of any and all types of combustible substances which are used or kept on the premises which might create a special firefighting problem.
- (g) A listing of any and all direct or collateral public health, safety, or welfare concerns which might create a special law enforcement problem, including an unusual increase in the amount of lighting, noise, odor, vehicle traffic, or pedestrian traffic within an area.
- (h) The total number of all non-family employees, and the total number of all

employees.

- (i) A certification by restaurant owners/managers that all employees have current food handlers' certifications issued by the Wichita/Sedgwick County Health Department.

### **Section 3.4.3 Inspection**

A. Submission of an application for registration and permit to operate will constitute permission, from applicant or their representatives, for inspection of the premises and/or business site by the Code Enforcement Officer or his or her designee for the express purpose of determining that the applicant has complied with the current incorporated Building Code, National Electrical Code, and all other relevant regulations of the city.

B. Upon receiving a written application for registration and permit to operate, the City Clerk shall request the Chief of Police to investigate the background of any person, partnership, corporation, or employee of any such business. The Chief of Police shall also determine whether any such business or service will have a significant effect upon the City's ability to provide law enforcement services. Any business which the Chief of Police determines will overwhelm the City's law enforcement department, either through the actual operations of such business or collateral effects directly associated with such business, will be denied a permit to operate until such business enters into an agreement with the City to underwrite all reasonable law enforcement costs brought about by the operation of such business. Such agreement will be subject to review and approval of the governing body.

C. Upon receiving a written application for registration and permit to operate, the City Clerk shall request the Zoning Administrator review the premises to determine that the applicant has complied with the Zoning Code, Subdivision Code, Sign Code, Historic Preservation Code, including observance of requirements set forth in conditional use permits issued by the City.

D. The clerk may request to inspect copies of all employees' food handlers' cards at the time of a restaurant owner/manager's application.

### **Section 3.4.4 Registration Certificate**

The city clerk's office shall issue a non-transferable registration and permit to operate certificate to each business upon confirmation from 1) the Code Enforcement Officer, or his or her designee, that the applicant is in compliance with existing codes and regulations, 2) the Zoning Administrator, or his or her designee, that the applicant is in compliance with existing codes and regulations, and 3) the Chief of Police, or his or her designee, that the applicant is in compliance with existing codes and regulations, has no legal background issues that prohibit operation of such business, and such business will not create an extraordinary impact upon law enforcement services. The holder thereof shall display the same in a conspicuous place in the place of business for which the certificate is issued. Certificates issued for business sites that do not maintain a business office within the City, shall maintain such certificate with regular business records for presentation to City inspectors as required. No business shall commence business operations prior to issuance of a permit.

### **Section 3.4.5** **Term of Registration**

Any permit secured under this Article shall not be transferable. Upon a change of locations within the City, a business shall re-register without payment of the required fee.

### **Section 3.4.6** **Denial, Revocation, and Restriction**

Any registration and permit to operate certificate issued under the terms and provisions of this title shall be revoked by the City, upon five days' written notice to the person holding any such permit, for any of the following reasons:

1. If a permit has fraudulently obtained by giving false information in the application therefor;
2. If the permittee has violated any of the provisions of this title or any rule or regulation made by the governing body of the city regulating the conduct of the particular calling, trade, profession, business or occupation covered by such permit;
3. If a permittee has become ineligible to obtain a permit under this Article;
4. If a permittee has violated the terms of an agreement entered into with the City in order to obtain a permit;
5. For the nonpayment of any permit fees payable under this Article;
6. For permitting any gambling or any violation either of the intoxicating liquor laws of the state or of this Code;
7. For the conviction of the permittee in any court for the violation of any laws of this state or ordinances of the city regulating such calling, trade, profession, business or occupation;
8. For conviction of the permittee in any court of any offense against the laws of the state or ordinances of the city involving moral turpitude; provided, expressly, that where any calling, trade, profession, business or occupation permitted under this title is governed by a specific section of this Code containing an express provision for the revocation of such permit, the terms of such specific section of this Code relating to revocation of the permit shall supersede and take precedence over the revocation provisions contained in this Article; provided further, that whenever the term "conviction" is used in any section of this title it shall include being placed on diversion; provided further, that in case a permit is revoked on any of the grounds set out above, no new permit to carry on such calling, trade, profession, business or occupation shall be issued under the provisions of this title to the permittee, for six months from the date that the revocation takes effect.

### **Section 3.4.7** **Emergency Suspension and/or Revocation Of Permit**

When, the Chief of Police determines that the operation of any place of business has become an extraordinary detriment to the public safety, peace, health or welfare, the Chief of Police may summarily suspend any City permit to operate of the business for a temporary period pending a hearing before the City Council.

### **Section 3.4.8** **Appeal**



**Section 3.5.1 Definitions**

"Oil" for the purposes of this Article shall mean crude oil or petroleum and shall include all waste oil.

A "well" or "wells" for the purposes of this Article shall mean any well drilled, or to be drilled, or used, for the production of oil, natural gas or the disposal of waste liquids produced therefrom. (Ord. 59)

**Section 3.5.2 Drilling Prohibited**

Well drilling shall be prohibited in all areas within the corporate limits of the City except those areas defined by this Article and shown on the Oil and Gas Well District Map. It shall be unlawful to drill a well in any area not permitted. (Ord. 59)

**Section 3.5.3 Oil and Gas Well District Map**

The Planning and Zoning Commission shall cause to be prepared a map describing the areas in which the drilling and operation of wells may be lawful. Such map is to be marked "Oil and Gas Well District Map" and shall be kept and maintained by the Planning and Zoning Commission and shall be available for inspection and examination by members of the public at all reasonable times. (Ord. 59)

**Section 3.5.4 Special and Drilling Permits Required**

It shall be unlawful for any person to drill or commence operations for the drilling of a well, at any place where otherwise lawful within the corporate limits of the City, without first having obtained a special permit from the City and a drilling permit as hereinafter provided. (Ord. 59)

**Section 3.5.5 Drilling Permit Application**

After approval of the special permit by the City, the applicant for a drilling permit shall file with the City Inspector of Bel Aire, Kansas an application for a drilling permit in writing conforming to the further provisions of this Article, and shall at such time deposit with the City Inspector of Bel Aire, Kansas, a fee of \$500.00 which shall, upon granting of the drilling permit, be paid into the City treasury of Bel Aire, Kansas, to the credit of the general operating fund. (Ord. 59)

**Section 3.5.6 Drilling Permit Issuance**

The City Inspector of Bel Aire, Kansas, shall, upon determination that the application for a well drilling permit conforms to the conditions of this Article, authorize the issuance of a permit

granting authority to drill the proposed well. Such drilling permit shall be conditioned to conform to the special permit as approved by the City; provided, that upon the completion of the well the permittee shall file a completion report with the City Inspector of Bel Aire, Kansas, showing the drilled depth of the well, the depth of the surface casing and the producing horizon being developed. Not more than once well shall be completed in the same producing horizon in a drilling unit. (Ord. 59)

### **Section 3.5.7 Information and Evidence to be Submitted**

The applicant for any permit to drill a well in the City shall submit the following information and evidence as a condition for the granting of a drilling permit hereunder.

1. Evidence that all owners of record of mineral interests or oil and gas leasehold interests or oil and gas leasehold interests in the area attributable or which might be attributed by unitization or declaration to drill-unit, where it is proposed to drill a well, have had an opportunity to join in the execution of the oil and gas lease of the applicant covering the land excluded in such unit or attributed areas, and that such owners of mineral interests or oil and gas leasehold interests have been notified in writing that the applicants propose to seek a permit for the drilling of a well on the unit described in such notice. In the event that such owners cannot with reasonable diligence be located, then affidavits setting forth the facts thereof may be substituted for the required proof of written notice.
2. Statements that the applicant has a valid oil and gas lease executed by persons owning at least fifty-one percent of the mineral interest included in the unit or attributed thereto, exclusive of streets and alleys, subject, however, to the provisions of the zoning regulations relating to the drilling of wells.
3. Statements that the lease provide or is accompanied by an agreement in writing providing substantially as follows: That a royalty of at least one-eighth of the gross production of the well shall be distributed to the respective owners of the minerals rights within the unit pro rata.
4. Statements that any lease with any governmental subdivision of the state, quasi-municipal corporation, public agency, or other entity as defined in K.S.A. 55-211a, or any amendments thereto, contain a provision for spacing of producing wells in accordance with rules and regulations of the Kansas Corporation Commission.
5. Agreements or statements showing reasonable and adequate plans for the handling and disposal, in accordance with all applicable state laws and City Codes and Ordinances, of all drilling fluids, basic sediment, brines and other deleterious substances and wastes that may be produced in connection with the drilling and operation of the proposed well.
6. Plans and drawings showing the facilities for the handling or storing of production of the proposed well.

7. Statement of agreement that in the event the well is either nonproductive or abandoned, within sixty days after the determination thereof, that all tools, equipment, and machinery used in connection with the drilling of the well shall be removed, and that the premises shall be fully restored to their original condition as soon as practicable and in no case more than sixty (60) days after such determination.

8. Statements of agreement that if such well is productive, only the tools, machinery, structures and equipment necessary for the operation thereof shall be maintained at such well and that the premises surrounding the same shall be restored to their original condition as nearly as practicable and within Sixty (60) days after completion of the well.

9. Statements of agreement that all drilling wastes shall be removed from storage facilities within thirty (30) days of completion of the well.

All of the preceding information and evidence shall be in a form satisfactory to the City Inspector of Bel Aire, Kansas and shall be in addition to information required for a special permit. (Ord. 59)

### **Section 3.5.8 Permit Duration**

The permits authorized by this Article shall be valid only in the event and for so long as the permittee shall faithfully comply with the conditions of this Article and of the permits authorized in accordance therewith, and only so long as there is production from or other lawful use made of the well. (Ord. 59)

### **Section 3.5.9 Assignment of Permit**

No permit, authorized by this Article, shall be assignable or assigned without the approval of the City Council. (Ord. 59)

### **Section 3.5.10 Pipeline Authorization**

If any applicant or any other party shall desire to lay pipelines in the streets, public grounds, or alleys in the City for transmission of oil or gas or any waste fluid from any well or drilling location within the boundaries of the City, authorization therefore, as provided by law, shall be obtained from the City Council and as a prerequisite to such authorization, the person seeking same shall provide detailed plans and specifications for constructing and maintaining such pipelines and for restoration, so far as practicable, of streets, grounds and alleys, wherever damaged by such construction, to as good condition as existed immediately prior to the damage, which plans and specifications shall be approved by the Code Enforcement Officer prior to granting such authorization. (Ord. 59)

### **Section 3.5.11 Surety Bonds Required**

1. The applicant shall at the time of filing an application for a drilling permit, submit for approval a corporate surety bond executed by some bonding or surety company authorized to do business in the state, or a personal surety bond, in the amount of one hundred thousand dollars payable to the City, conditioned for the full and faithful compliance with all the terms and provisions of this Article and the conditions of the permit authorized thereby, and to save and hold the City free and harmless from all suits or damages sustained by the City in the event that any claim for damage or injury is maintained against the City as a result of the activities of the applicant in drilling or operating a well. A copy or certificate of the bond shall be deposited with the City Clerk. All such bonds shall be renewed immediately prior to their termination and shall remain in force and be binding upon the principal and surety unless cancelled by giving thirty (30) days notice in writing to the City Clerk, and the surety shall not be liable for any loss after the expiration of thirty (30) days from the date specified in the notice, except for loss occurring while the bond is in full force and effect. Upon the expiration of any such bond, a new bond shall be filed by the principal in such amount as in the case of an original bond.

2. In the event that any permittee shall have furnished such bond as required for a permit and there shall be no unsatisfied claim upon such bond at the time of the application for a subsequent permit to drill a well, no further bond shall be required for any subsequent permit, but in such event there shall be endorsed on the bond the identification of the subsequent permit for which the bond is made applicable; provided, that if there shall be an unsatisfied claim against the existing bond at the time of the application for a subsequent permit, the City Council, at its discretion, may require an additional bond in the aforesaid amount or any lesser amount as may be determined.

3. The amount of the surety bond heretofore may be reduced by ten thousand dollars from and after the completion of any well upon filing a new or amended bond conditioned and approved as in the case of the original bond, except for the amount. Such bond shall be renewed and filed during the continued operation of the well and for a period of six months thereafter or until the premises have been cleared of obstructions and restored to their original condition as required by this Article. (Ord. 59)

### **Section 3.5.12 Indemnity or Casualty Insurance**

The applicant for a drilling permit shall submit a policy of indemnity or casualty insurance, issued by some responsible insurance company authorized to do business in the state, and naming the City as co-insured, insuring against injuries, loss or damage for which the applicant may be liable as the result of the drilling, operation or maintenance of any well or any structure or machinery appurtenant thereto. Such insurance coverage shall be in the following amounts: \$500,000.00 for injury to any one person in any occurrence; \$500,000.00 for injury to more than one person in any occurrence; \$100,000.00 for loss or damage to property in any one occurrence, and additional excess coverage in the amount of \$2.0 million.

A copy or certificate of the policy shall, be deposited with the City Clerk, together with a certificate by the insurance company that such insurance is in force and shall not be cancelled



without thirty days' written notice thereof to the City. Such insurance shall be renewed immediately prior to the end of the term thereof and shall be maintained during the entire period of drilling or operation of a well. (Ord. 59)

### **Section 3.5.13 Units Established**

The City Council shall, from time to time as drilling requirements develop, in connection with the Oil and Gas Well Drilling Map, determine and establish units for the drilling of wells. Where practicable, in so doing, the City Council shall establish units of forty contiguous acres when allowed by state law and regulation; and provided, that the City Council may waive this requirement as to drilling units of wells permitted or commenced prior to June 21, 1983, and provided, further, that intervening rights of way, streets and alleys within such units and to the center line of the same on the perimeter thereof shall be included in determining such acreage. The territory in such units shall be attributed to the well for the drilling of which a permit may be granted. Each unit shall be appropriately numbered and the number thereof entered on any drilling permit granted for the unit.

The production unit shall be coterminous with the drilling unit. (Ord. 59)

### **Section 3.5.14 Location of Wells**

Each well commenced or drilled in the corporate limits shall, as nearly as practicable, be drilled in the center of a drilling unit, heretofore provided and established, but the City Council at the time of granting a special permit may authorize such variation therefrom as may be deemed necessary depending upon the location of streets, alleys, residences and other buildings relative to the proposed drill site, geographical and topographical factors, and the size and shape of the unit and available attributable areas; provided, however, that the well location shall otherwise be in accordance with the provisions of any other Zoning Regulations. The approval location of the well shall be described in the permit. (Ord. 59)

### **Section 3.5.15 Applicable State Laws and Regulations**

Unless otherwise set forth specifically by the Code, all wells shall be spaced, located, drilled, operated, and maintained in accordance with applicable state laws and regulations. (Ord. 59)

### **Section 3.5.16 Drilling and Production Regulations**

The issuance and continued validity of a permit and the authorization for the drilling or operation of a well, authorized thereby, shall be conditioned upon compliance by the permittee with the following rules and regulations and any departure therefrom shall constitute a violation of this Article.

1. The surface pipe must be run and set at least ten feet into the Wellington Shale and in no event less than three hundred feet into the ground.

2. The surface pipe must be solidly cemented from top to bottom on the outside of the pipe.
3. Adequate precautions shall be taken and necessary well head safety devices be used at all times during the drilling and completion of the well; and all drill stem tests shall be reverse circulated to confine fluids to pits in accordance with the most acceptable practices.
4. Locations and equipment shall at all times during drilling operations be fenced by either a temporary portable type snow fencing at least four feet high or other fencing equally acceptable.
5. Upon completion of a well the pumping unit, tank battery and other permanent production equipment shall be enclosed in accordance with the special permit approved by the City Council.
6. All drilling fluids shall be contained in portable tanks at the drilling site.
7. All waters produced from any well shall be disposed of underground in accordance with regulations of the Kansas Corporation Commission or the State Board of Health.
8. At no time shall fluids of any kind be run into or stored in earthen pits. No saltwater or other waste fluids shall be disposed of in waterways or the sanitary sewer system unless approved by the State Board of Health and the Code Enforcement Officer.
9. All pumping units shall be set on a steel or concrete base and the surface of the ground around the well shall be graded to surrounding ground.
10. All pumping units must be electrically driven and equipped with belt safety guards.
11. All oil separator, petroleum and brine storage tanks shall be covered. No gas, odors, fumes from any storage tank, oil separator or casing head shall be vented into the open air without being filtered through a pollution control device containing activated carbon. Such devices shall be maintained on a scheduled basis to maintain their effectiveness.

Burning of gases or fumes by use of flares from wells or storage facilities is not allowable without a specific permit from the State Environmental Health Director.

12. All storage tanks shall be located within a diked area not less than two feet in height covering an area sufficient to contain and hold one and one-half times the entire liquid capacity of all tanks therein. Rainwater or other fluids shall not be allowed to accumulate within the dikes and shall be removed periodically. Unless tested and approved for disposal by sanitary sewer, the fluids shall be considered as contaminated

and disposed of in accordance with regulations of the Kansas Corporation Commission or the State Board of Health.

13. All production equipment, structures and premises shall at all times be maintained and kept in a clean, sanitary and tidy condition; and all structures shall be of incombustible materials.

14. Storage tanks shall be equipped with automatic shut off devices linked to the fluid level in the tank to prevent overflowing and spillage. In addition, a single overflow tank shall be provided to contain the overflow from the oil or brine storage tanks in the event that the shutoff devices fail. The capacity of the overflow tank shall be sufficient to hold 24 hours production from the well or wells.

15. The owners and operators of drilling, pumping or storage equipment shall be responsible for the immediate clean-up and disposal of any spillage of oil or brine at the well site.

16. All wells shall be equipped with a blowout prevention device of the double ram type. (Ord. 59)

**Section 3.5.17 Additional Requirements**

At the time of granting any permit, under the provisions of this Article, the City Council may make requirements, in addition to those contained therein, as may be reasonably necessary for protection of persons and property in the City. (Ord. 59)

**Section 3.5.18 Licenses**

1. A license fee is hereby levied upon the owner or operator of every completed and operated well in the corporate limits in the following amounts:

- (a) Producing oil or gas wells.....\$150.00
- (b) Salt water disposal wells.....\$ 75.00

Such fees shall be paid to the City Clerk within not more than twenty (20) days after completion of any well. The City Clerk shall thereupon issue a license which shall be valid for a period of twelve calendar months from and after the completion date of such well. The license shall not be transferable or prorated for any unused period. The fees so paid shall be deposited in the City treasury to the credit of the General Operating Fund and budgeted for the payment of the costs of administration of this Article.

2. The license herein required shall be renewed annually and the fee therefor paid at twelve month intervals from the date of the first license and until the operation of any well so licensed shall be discontinued, and the well abandoned, and the premises cleared as provided in this Article. (Ord. 59)

**Section 3.5.19**                      **Well Inspection**

It shall be the duty of Public Works to inspect wells and drilling sites and to otherwise generally administer and enforce, in conjunction with other concerned departments of the City, the provisions of this Article on drilling and operation of well in the City. (Ord. 59)

**Section 3.5.20**                      **Forms**

The Public Works may prepare and supply such applications, permits, notices licenses, and other forms as may be required by this Article and upon request supply copies of this Article to applicants for any permit or license. (Ord. 59)

**Section 3.5.21**                      **Revocation**

Upon any substantial violation of the conditions of any permit, license, authorization or of any provisions of this Article, the City Council may, upon a hearing after five days' written notice by mail or personal service, to the permittee or licensee, or if the address of the permittee or licensee is unknown and the permittee or licensee cannot be found in the City, after the expiration of five days from the date of publication of notice of any such hearing in a newspaper authorized to publish legal notices in the City, revoke such permit, license or authorization; provided, however, that if in the judgment of the City Council restitution is made for any damage occasioned by such violation together with adequate provisions to prevent any further violations by such permittee or licensee, the City Council may waive revocation of any permit or license, but the same shall not affect any penalty otherwise provided for the violation of this Article. (Ord. 59)

**Section 3.5.22**                      **Notices to Public Works**

It shall be the duty of every permittee or licensee, as the case may be, to give the Public Works notice of the commencement of any drilling of a well, the setting and cementing of the surface casing of any well and of the beginning of other stages of the drilling or operation or abandonment of any well, as may be required by regulations to be approved by the Department of Public Works. The date of completion or abandonment of any well and pertinent information shall be entered of record. (Ord. 59)

**Section 3.5.23**                      **Use of Abandoned Wells**

All abandoned wells which shall not be used and equipped for disposal purposes, shall be filled and plugged in accordance with applicable rules of the agencies of the state having jurisdiction thereof. (Ord. 59)

**Section 3.5.24**                      **Orders to Stop Work**

The Department of Public Works shall be authorized to order any work stopped or corrected which shall not conform to the conditions required by this Article. A copy of such Order shall be filed with the well permit and preserved as a permanent record open to public inspection. (Ord. 59)

**Section 3.5.25 Appeals**

Any person aggrieved by any inspection order to stop or correct any work may forthwith appeal to the City Council for a hearing and determination of the matter complained of, within ten days from the decision of the Department of Public Works. Any appeal shall be in writing and filed with the City Clerk to be submitted to the City Council at its next meeting for a hearing and a determination thereof. The decision of the City Council shall be final and conclusive. (Ord. 59)

**Article 6 TRANSIENT GUEST TAX**

- Section 3.6.1 Transient Guest Tax Adopted.**
- Section 3.6.2 Rate.**
- Section 3.6.3 Reserved.**
- Section 3.6.4 Reserved.**

**Section 3.6.1 Transient Guest Tax adopted**

A transient guest tax was adopted by the Governing Body of the City of Bel Aire, Kansas through Charter Ordinance 15.

**Section 3.6.2 Rate**

The transient guest tax shall be levied at a rate of 6% upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court, and shall be collected as provided in K.S.A. 12-1698.

**Article 7 AMUSEMENT CENTERS PARKS AND RIDES**

- Section 3.7.1 Definitions.**
- Section 3.7.2 Exceptions to this Article.**
- Section 3.7.3 License Required - Fee.**
- Section 3.7.4 License Application.**
- Section 3.7.5 Denial of License.**
- Section 3.7.6 Temporary Amusement Rides: Installation and Operation.**
- Section 3.7.7 Amusement Parks: Installation and Operation.**
- Section 3.7.8 Liability Insurance.**
- Section 3.7.9 Inspections: Safety.**
- Section 3.7.10 Operating Requirements.**
- Section 3.7.11 Patrons and Renters Responsibilities.**
- Section 3.7.12 Enforcement and Inspection of Compliance.**

**Section 3.7.13 Compliance.**

**Section 3.7.14 Suspension or revocation of license: Notice of Hearing**

**Section 3.7.15 Appeal Procedure.**

**Section 3.7.16 Penalty.**

**Section 3.7.17 Special Supervision.**

**Sec. 3.7.1 Definitions**

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

*'Amusement park'* means inflatables, kiddie rides or amusement rides which are permanently attached to the real estate where such rides are operated.

*'Amusement ride'* means any inflatable or mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

- (1) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;
- (2) Equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways;
- (3) Equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;
- (4) Kiddie rides; and
- (5) Temporary amusement rides.

*'Amusement Ride Company'* means an individual, partnership, business, corporation or non-profit entity which:

- (1) Operates an amusement park; or
- (2) Operates, leases or rents amusement, kiddie or temporary amusement rides, including inflatables.

*'Carnival'* means an amusement enterprise, including a circus, usually consisting of one or more amusement rides, shows, or concessions which is erected or operated within the City on a temporary basis.

*'Certificate of inspection'* means a certificate, signed and dated by the appropriate, qualified inspector, showing that an amusement ride or temporary amusement ride has satisfactorily passed inspection by such inspector.

*'Chief of Police'* means the Chief of Police of Bel Aire, Kansas or his or her designee.

*'City'* means the City of Bel Aire.

*'City Inspector'* means the Designated Building Inspector for the City of Bel Aire, Kansas or his or her designee.

*'Inflatable'* means any structure fabricated from flexible material, kept inflated by one or more blowers which rely on air-pressure to maintain their shape and are used by participants to bounce, slide, run, jump or climb. Such term includes, but is not limited to: bounce houses, mazes, obstacle courses, inflatable slides, moon walks, inflatable climbing walls, or other similar types of amusement apparatus.

*'Kiddie ride'* means an amusement ride designed primarily for use by children up to twelve (12) years of age that requires simple reassembly procedures prior to operation.

*'Level I Qualified Inspector'* means a person who holds a current level I or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

*'Level II Qualified Inspector'* means a person who holds a current level II or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

*'Licensee'* means any person to whom a current license has been issued under this article authorizing such person to conduct the business of an Amusement Ride Company.

*'Nondestructive testing'* means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

- (1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;
- (2) Assess integrity, properties and composition; and
- (3) Measure geometrical characters.

*'Operator'* means a person employed by or compensated by a licensee who is actually engaged in or directly controlling the operations of an amusement ride.

*'Parent or guardian'* means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

*'Patron'* means any individual who is:

- (1) Waiting in the immediate vicinity of an amusement ride to get into or on the ride;
- (2) Getting on or into an amusement ride;
- (3) Using an amusement ride;
- (4) Getting off an amusement ride; or
- (5) Leaving an amusement ride and still in the immediate vicinity of the ride.

*'Patron' does not include employees, agents or servants of the licensee while engaged in the duties of their employment.*

*'Person'* means any individual, association, partnership, corporation, limited liability company, government or other entity.

*'Renter'* means a person who rents, leases or enters into a contract for the rental or use of an amusement ride.

*'Serious injury'* means an injury that results in:

- (1) Death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;
- (2) A compound fracture; or
- (3) Other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

*'Self-inspection'* means that the licensee causes the inspection of an amusement ride by an appropriate level qualified inspector without using the services of a third-party inspector.

*'Sign'* means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

*'Temporary amusement rides'* for the purpose of this article, shall be construed to include and mean the operation, leasing or renting of amusement rides which can be, or are, moved from location to location.

### **Sec. 3.7.2 Exceptions**

The provisions of this article shall not apply to:

- (a) Games, concessions and associated structures;
- (b) Any coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;
- (c) Non-mechanized playground equipment, including, but not limited to: swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices;
- (d) Amusement rides which are used solely for private residential use. As used in this section, 'private residential use' shall mean use by the owner of the ride, his or her family and guests for their personal enjoyment for which no admission fee is charged;
- (e) Advertising inflatables or inflatable target games that do not require participants to enter into or climb on;
- (f) Boats, air mattresses, or other flotation devices.



**Sec. 3.7.3****License required—Fee**

A. It is unlawful for any person, firm, partnership or corporation to engage in the business of an Amusement Ride Company without having first obtained a license therefore from the City Clerk and paying a license fee as follows:

1. A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany the license application.
2. Persons engaged in the operation of amusement parks shall pay an annual license fee of six hundred dollars.
3. Persons engaged in the operation of temporary amusement rides, when not part of an amusement park as provided for in subsection (2) of this section, shall pay a license fee as follows:
4. For twenty or more temporary amusement rides the annual license fee shall be six hundred dollars.
5. For persons who own, operate, rent, or lease less than twenty temporary amusement rides, the annual license fee shall be thirty dollars per Amusement Ride.

B. A license under this section is not transferable to another person or location. A change in ownership shall require the new owner to secure a new license.

C. Licenses shall be issued for a year. No reminders will be issued to licensees to obtain a license renewal.

D. In addition to the requirements set forth in this article, carnivals, amusement rides of any number to be operated upon public property, and circuses are required to obtain a special event license of the City of Bel Aire.

**Sec. 3.7.4****License—Application**

A person desiring to operate an Amusement Ride Company within the City of Bel Aire shall file with the City Clerk a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant's authorized agent. The following information and documentation is required and shall be submitted with the application:

1. Business name, address, telephone number, and intended hours of operation of the business;
2. A list of the name, manufacturer, type and serial or other identification number (if available) of amusement rides which are used by the licensee, or rented or leased to other persons by the licensee or applicant;
3. The name, address and telephone number of the owner of the business and the licensee, if differing individuals;
4. Copies of ride inspections;

5. Name, address, and telephone number of individual inspecting the rides;
6. Copy of ride inspector's certification;
7. Proof of liability insurance as required by this article;
8. Any felony convictions of either the owner of business, licensee or any ride operators; and
9. A statement that the applicant for license is familiar with the conditions imposed upon his or her business by the Codes of the City, and that the licensee will conform to the requirements of all such Codes.

### **Sec. 3.7.5 Denial of License**

An application for an Amusement Ride Company license or renewal of such license may be denied if:

1. The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
2. The application is incomplete or does not contain the information required by this article;
3. The applicant fails to comply with any conditions of approval including, but not limited to:
  - a. Remittance of all application and licensing fees;
  - b. Proof of liability insurance required;
  - c. Proof of annual inspection of rides;
  - d. Proof of certification of ride inspector;
  - e. Obtaining all other permits and licenses required by the City Code.
4. The applicant, in the last two years, has violated the requirements of this article or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, et seq. and amendments thereto.
5. For the purposes of this section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has previously violated the terms and conditions of this article. A certified or notarized copy of a revocation of license or list of uncorrected violations generated by any state or local government entity shall be evidence of such violation. A certified copy of conviction from any local or state court for any violation contained within subsection (d) is prima facia evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest. Violations of this article occurring prior to September 1, 2010, shall not be considered in determining if a license shall be issued or re-issued to an applicant or licensee.

6. The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.

**Sec. 3.7.6 Installation and operation regulations of temporary amusement rides.**

All temporary amusement rides shall conform to the following regulations and requirements:

1. All improvements, and temporary amusement rides installed, erected or operated shall meet and comply with all requirements and regulations provided in and by any codes adopted by the City, including but not limited to: building codes, fire codes, health and safety codes, and zoning codes.
2. No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a temporary amusement ride after the hour of nine p.m., Sunday through Thursday, or after the hour of ten p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with the regulations governing vehicle and non-vehicle sound amplification systems, and the provisions of the nuisance Code of the City of Bel Aire regulating noise.
3. No temporary amusement ride shall be operated after the hours of ten p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday.

**Sec. 3.7.7 Installation and operation regulations of amusement parks**

All amusement parks shall conform to the following regulations and requirements:

1. No amusement park shall be installed or operated in use districts other than those districts where allowed by the Bel Aire Zoning Code, relating to zoning within the corporate city limits of the City of Bel Aire.
2. Unless other fence screening is required by the Bel Aire Zoning Code, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a minimum height of five feet or other mode of screening approved by the City Inspector.
3. Adequate toilet facilities shall be provided in connection with such amusement park, and shall be constructed and maintained in accordance with the ordinances of the City of Bel Aire.
4. Such amusement parks shall be operated in full compliance with all requirements of the health and sanitation ordinances of the City.
5. All improvements, amusement rides or buildings installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code and the electrical code of this City.
6. No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a temporary

amusement ride after the hour of nine p.m., Sunday through Thursday, or after the hour of ten p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with the regulations governing vehicle and non-vehicle sound amplification systems, and the provisions of the nuisance Code of the City of Bel Aire regulating noise.

7. Amusement parks shall close and cease operations promptly at eleven p.m.
8. No amusement ride shall be operated after the hours of ten p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday.

**Exception:** The closing times set forth above shall not be applicable to the operation of amusement park attractions and amusement rides which are operated completely within an enclosed building.

### **Sec. 3.7.8 Liability insurance**

No person, firm, partnership, non-profit organization, or corporation within the corporate limits of the City shall be licensed as an Amusement Ride Company until a certificate of commercial general liability insurance with coverage of not less than one million dollars per occurrence is deposited and filed with the City Clerk or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the state, City or any subdivision of the State of Kansas.

### **Sec. 3.7.9 Inspections**

- A. The licensee shall, as part of the license application or renewal, provide the City Clerk or his or her designee with a certificate of inspection by the appropriate, qualified inspector for the operation of any amusement ride.
- B. Each certificate shall be in a format approved by the City Inspector and shall include, at a minimum, the following information:
  1. The date of inspection;
  2. Name, manufacturer, type and serial or other identification number, if applicable, of the amusement ride inspected;
  3. The items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, support equipment and supplies;
  4. The printed name, address, certification level, date of certification, and signature of the qualified inspector;
  5. Specify any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered, pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, support equipment and supplies;
  6. The results of the nondestructive testing of the amusement ride which has been conducted in accordance with the recommendation of the manufacturer of the

amusement ride and in conformance with standards at least equivalent to the current standards of the American Society for Testing and Materials.

- C.
  - 1. Inspections for inflatables or kiddie rides shall be performed by a Level I qualified inspector.
  - 2. Inspections for amusement rides, other than inflatables or kiddie rides shall be performed by a Level II qualified inspector.
- D. No amusement ride shall be operated in the City unless such ride has a valid certificate of inspection.
  - 1. Amusement Park rides erected at a permanent location in the City shall be inspected by a Level II qualified inspector at least once every twelve (12) months.
  - 2. Inflatable or kiddie rides shall be inspected by a Level I qualified inspector at least once every twelve (12) months.
  - 3. Temporary amusement rides, with the exception of kiddie rides and inflatables, shall have been self-inspected by a Level II qualified inspector within the preceding thirty (30) days prior to the ride being erected.
  - 4. The certificate of inspection required by this subsection shall be signed and dated by the appropriate level qualified inspector. A copy of such inspection shall be submitted for review by the City Inspector.
  - 5. An inspection verification certificate, issued by the City, shall be posted in plain view on or near the amusement ride in a location where it can easily be seen.

**Sec. 3.7.10 Operating requirements**

- A. The licensee shall retain, at all times, current maintenance and inspection records for each ride. These records shall be retained in such a way that segregates the records by ride. Such records shall be available to any officer authorized to enforce the provisions of this article and any person contracting with the licensee for the amusement ride's operation.
- B. No amusement ride shall be operated in the City unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to the current standard of the American Society for Testing and Materials.
- C. Operators of amusement rides should have satisfactorily completed training that includes, the following:
  - 1. Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;
  - 2. Demonstration of physical operation of the ride;
  - 3. Supervised observation of the operator's physical operation of the ride;
  - 4. The manufacturer's recommendations for operation, set-up, use and maintenance of the amusement ride.

D. Such training should occur at least once every twelve months and may be conducted by the licensee or his or her designee.

E. At the time of renting or leasing a temporary amusement ride, the licensee shall provide, in writing, to the individual renting the ride, the following:

1. Instructions on operating procedures for the ride;
2. General safety and emergency procedures;
3. Name, license number, address and phone number of the amusement ride company;
4. The name, manufacturer, serial number or other identification number of the amusement ride;
5. Date of last inspection;
6. Copy of inspection verification for the amusement ride issued by the City of Bel Aire.

F. No amusement ride shall be operated in the City unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of training, signed and dated by the trainer, is available to any official designated to enforce this article and any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

G. No amusement ride shall be operated in the City unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

H. All amusement rides shall be operated in accordance with the manufacturer's instructions and recommendations for the operation, set-up, use and maintenance of such ride.

I. The licensee or his or her agent shall contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

1. The name, address and phone number of the injured person;
2. A full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
3. The cause of the injury, if known; and
4. The names, address and phone numbers of any witnesses to the incident.

J. Whenever a serious injury results from the operation of an amusement ride:

1. Operation of the ride shall immediately be discontinued;
2. Operation of the ride shall not be resumed until it has been inspected and the appropriate level qualified inspector has approved resumption of operation; and
3. The licensee, within thirty (30) days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

K. It shall be the responsibility of the licensee to notify the City Inspector of the purchase of any additional amusement rides to be operated within the City whether or not such amusement rides are covered under an existing license to operate.

L. Prior to the use of a new amusement ride, the licensee shall submit to the City Inspector proof of purchase of such amusement ride.

M. Prior to the use of a used amusement ride, the licensee shall submit to the City Inspector a copy of an inspection by the appropriate level qualified inspector.

N. Upon receipt of the proof of purchase or inspection, the City Inspector will issue an inspection verification for such amusement ride.

**Sec. 3.20.11 Patron's and renter's responsibility**

(a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron, or parent of a minor patron, of an amusement ride has a duty to:

(1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;

(2) Obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

(3) Refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) Engage all safety devices that are provided;

(5) Refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee;

(6) Refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee;

(7) Parents/guardians shall monitor the activities of their minor child/children while such child/children are in the vicinity of amusement rides; and

(7) Any parent or guardian of a patron shall have a duty to reasonably ensure that the minor patron complies with all provisions of this section.

(c) Each renter of an amusement ride has a duty to:

(1) Operate any and all rented amusement rides in accordance with written and oral instructions regarding the operation, set-up and use of such ride as provided by the Amusement Ride Company;

(2) Comply with any and all written or oral safety and emergency procedures as provided by the Amusement Ride Company;

- (3) Contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:
  - a. The name, address and phone number of the injured person;
  - b. A full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
  - c. The cause of the injury, if known; and
  - d. The names, address and phone numbers of any witnesses to the incident.
- (4) Engage all safety devices that are provided for the amusement ride;
- (5) Ensure that patrons do not disconnect or disable safety devices of the amusement ride;
- (6) Take necessary steps to reasonably ensure that patrons comply with safety, operation and use requirements of the amusement ride.

**Sec. 3.7.12 Enforcement and inspection**

The City Inspector, or his or her designee, and the Chief of Police, or his or her designee, is authorized to inspect and approve the licensee's premises and amusement rides to ensure compliance with all state laws and the ordinances of the City of Bel Aire governing public health, safety and welfare.

**Sec. 3.7.13 Compliance**

All licensees shall comply with all ordinances and regulations of the City of Bel Aire. A violation of the provisions of this article or any ordinances of the City of Bel Aire shall constitute grounds for revocation or suspension of the license.

**Sec. 3.7.14 Suspension or revocation of license—Notice of hearing**

- (a) Any license issued under this article may be suspended for a period not to exceed thirty days or revoked by the Chief of Police or City Inspector or his or her designee upon five days' written notice, if the licensee:
  - (1) Has failed to pay the annual license fee;
  - (2) Violated any provision of this article or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, et seq. and amendments thereto;
  - (3) Becomes ineligible for a license;
  - (4) The licensee or applicant has knowingly given a false statement as to a material fact submitted to the City Clerk during the application process;
  - (5) Has failed to report a serious accident to an officer authorized to enforce the provisions of this article;
  - (6) Has failed to maintain sufficient inspection and maintenance records or;



- (7) Has failed to permit the inspection of the premises and/or inspection and maintenance records during business hours by any official authorized to enforce the provisions of this article. The specific reasons for the revocation or suspension shall be set forth in the notice.
- (b) For the purposes of subsection (a) of this section, written notice shall be deemed sufficient upon personal service or the mailing of the notice to the most recent address on the application of the licensee or applicant on file with the City Clerk.
- (c) For purposes of this Section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has violated the terms and conditions of this article or, the Amusement Ride Act, K.S.A. §44-601 et. seq. A certified copy of conviction from any local or state court for such violation is prima facia evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.
- (d) For purposes of this Article, a suspension of license to operate is an immediate act by an authorized agent of the City or the State to close an amusement facility or close an amusement ride, when such has been reasonably deemed by such agent to be in violation of this Article.
- (e) For purposes of this Article, a revocation of a license to operate is an official action by the City following due process as set forth above.
- (f) A revocation may follow a suspension, but is not a mandatory prerequisite.

**Sec. 3.7.15** **Appeal procedure**

- (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of an amusement ride license may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Chief of Police or City Inspector or his or her designee. The Notice of Appeal shall specify:
  - (1) The name and address of the appellant;
  - (2) The date of application;
  - (3) The date of the denial, suspension or revocation of the license or application; and
  - (4) The factual basis for the appeal.
- (b) The notice of appeal shall be accompanied by a fee of \$100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay a revocation of the license, but not disturb any order of suspension of a license, until the matter is heard by the City Council.
- (c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Chief of Police or City Inspector.
- (d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay

the denial, revocation or suspension of the license by the City Council. The decision of the City Council shall become effective immediately.

- (e) In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting on his or her behalf for a period of two years from the date of the revocation.

**Sec. 3.7.16** **Penalty**

A. Any person who violates any provision of this article is guilty of an unclassified misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than one month, or by both such fine and imprisonment.

B. Each day a violation continues shall constitute a separate offense.

**Sec. 3.7.17** **Special Supervision**

In addition to the regular license fees required herein, the chief of police may determine, at any time, special supervision shall be required in connection with the conduct of the amusement park, carnival, or special event. In such event, the applicant shall pay an additional sum to help defray the cost of special supervision. The amount of special supervision to be paid shall be that amount necessary to reimburse the City for the time of any of its employees utilized in the special supervision. The chief of police shall designate personnel to supervise under the provisions hereof. If the chief of police shall not determine supervision to be necessary, the chief shall have the continuing right to make such finding of necessity of supervision in which event he or she shall, in writing, notify the city clerk and the licensee and within twenty-four (24) hours the licensee shall make arrangements for the cost of such special supervision. If the chief of police shall determine supervision to be no longer necessary, after having been instituted, he or she shall make such determination, in writing. The chief of police shall have the continuing right to ascertain that supervision is necessary under the provision hereof.