

# CONTENTS

## Chapter 14 – Miscellaneous

### Article I. Minor Curfews

Section	Page
14-1 Curfew Hours.....	1
14-2 Curfew Hours on Motor Vehicles.....	1
14-3 Exceptions to Sections 14-1 and 14-2.....	1
14-4 Fine Upon Violation .....	1

### Article II. Intoxication in Public

14-15 Drinking Intoxicating Beverage in Public .....	2
14-16 Definition of Intoxicating Beverage .....	2
14-17 Fine for Violation.....	2

### Article III. Open Containers

14-25 Definitions.....	2
14-26 Open Container Prohibited .....	3

### Article IV. Miscellaneous Offenses

14-31 Littering.....	3
14-32 Destruction of Property.....	4
14-33 Peace Disturbance.....	4
14-34 Common Assault.....	4
14-35 Loitering.....	5
14-36 Window Peeping .....	5
14-37 Use of Firearm or Projectile Weapon in the City Limits .....	5
14-38 Prohibiting Nudity or Obscenities in City .....	5
14-39 Prohibiting Concealed Weapons.....	6
14-40 Stealing .....	6
14-41 Offense of Resisting or Obstructing a Police Officer .....	6
14-41-1 False Reports to Police.....	6
14-42 Violation for Loitering Upon Closed Parking Lots .....	7
14-43 Trespass.....	7
14-44 Possession, Control and Sale of Narcotic Drugs .....	8
14-45 Prohibiting use of Heavy Equipment During Certain Hours .....	8

14-46	Purchase or Possession of Tobacco Products by Persons Under 18 Years of Age.....	8
14-47	Affrays (Fighting in Public).....	8
14-48	Unlawful Entry.....	8
14-49	Financial Responsibility Required.....	9
14-50	Unlawful Use of Laser Beam Devices.....	10
14-50-1	Prohibiting Pocket Bikes and Motorized Scooters on Public Property.....	10
14-50-2	Closing Time for the City Owned Property used for Parks and Recreation Purposes.....	11

#### Article V. Obscene Conduct and Distribution of Obscene Material

14-51	Definition .....	12
14-52	Unlawful Erotic Activities .....	16
14-53	License Required .....	17
14-54	Application for License; Aldermen Consideration; Renewal .....	18
14-55	Transferability Revocation and/or Suspension of License .....	20
14-56	Location of Adult Business.....	21
14-57	Business Records .....	21
14-58	Manager and Entertainer License .....	22
14-59	Manager Responsibility .....	23
14-60	Operational Criteria .....	23
14-61	Compliance with Code Requirements .....	24
14-62	Distributing Obscene Material to Minors .....	24
14-63	Displaying Obscene Items to Minors.....	24
14-64	Exhibiting Obscene Live Conduct to a Minor .....	25
14-65	Displaying Obscene Materials Generally .....	25
14-66	Repealed 7/09.....	26
14-67	Nude Conduct .....	26
14-68	Obscene Live Conduct.....	26
14-69	Exceptions.....	26
14-70	Severability .....	27
14-71	Penalties .....	27

#### Article VI. Smoking Regulations

14-86	Designation of Nonsmoking and Smoking Places.....	28
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#### Article VII Offenses of Harassment

14-101	Definitions; Determination of Location of Offence .....	33
14-102	Harassment .....	34
14-103	Cyber-Harassment.....	35
14-104	Stalking.....	36



**CHAPTER 14**  
**OFFENSES – MISCELLANEOUS**

**ARTICLE I.**  
**MINOR CURFEWS**

**Section 14-1. Curfew Hours.**

It shall be unlawful for any minor under the age of seventeen (17) years, to remain on the public street, sidewalks or other public property of the City of Nixa, Missouri, during the hours of 11:00 p.m. until 6:00 a.m. the following day, Sunday thru Thursday and 12:30 a.m. to 6:00 a.m. on Saturday and Sunday. (784 12/92)

**Section 14-2. Curfew Hours on Motor Vehicles.**

It shall be unlawful for any minor under the age of seventeen (17) years to operate or occupy any motor vehicle operated upon the streets of Nixa, Missouri, during the hours of 11:00 p.m. until 6:00 a.m. the following day, Sunday thru Thursday and 12:30 a.m. to 6:00 a.m. Saturday and Sunday. (784 12/92)

**Section 14-3. Exceptions to Sections 14-1 and 14-2.**

- a. Minor accompanied by parent or legal guardian.
- b. Non-residents of the City of Nixa, Missouri, moving in a vehicle through the City without loitering or stopping said vehicle.
- c. Any minor who is married and is accompanied by their spouse, or their child.
- d. Any minor departing or returning from their place of employment.
- e. Any other emergency as judged by the law enforcement official to be fair and just.

(784 12/92)

**Section 14-4. Fine Upon Violation.**

Any person violating any part of this ordinance shall be deemed, upon a plea of guilty or upon conviction, guilty of a misdemeanor and fined not less than \$1.00 or more than \$100.00; or imprisonment of not less than one day, nor more than 90 days; or both such fine and imprisonment.

Sections 14-5 through 14-14 reserved.

## **ARTICLE II.**

### **INTOXICATION IN PUBLIC**

#### **Section 14-15. Drinking Intoxicating Beverage in Public.**

It shall be unlawful for any person to drink any intoxicating beverage in public, or on the school grounds, or in the parks, or on the highways, or byways, or alleys, or on top of any building, or under any building, owned by the public within the City Limits of Nixa, Missouri.

#### **Section 14-16. Definition of Intoxicating Beverage.**

Intoxicating beverage shall mean any drink containing any alcohol, as defined by the laws of the State of Missouri, as currently on the books.

#### **Section 14-17. Fine for Violation.**

Any person or persons violating the provisions of this ordinance shall upon conviction or plea of guilty be fined not less than \$5.00 or more than \$100.00.

Sections 14-18 through 14-24 reserved.

## **ARTICLE III.**

### **OPEN CONTAINERS**

#### **Section 14-25. Definitions.**

Unless the context indicates that a different meaning is intended, as used in this section, the following words or phrases have the following meaning:

- (i) "Alcoholic beverages" includes intoxicating liquor, non-intoxicating beer and any liquid having an alcoholic content, regardless of the percentage alcoholic content by weight or volume irrespective of the manner in which the alcohol was placed in the container, which is capable of being consumed as a beverage by a human being.
- (ii) "Bus" is a motor vehicle designed for the transportation of a driver and ten or more passengers.
- (iii) "Person" includes a driver or passenger.
- (iv) "Public Way" means any street, alley, boulevard, parkway or other public thoroughfare.

- (v) “Recreational Motor Vehicle” is any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Such a vehicle may or may not be registered as a commercial vehicle.

**Section 14-26. Open Container Prohibited.**

No person shall transport, carry, possess or have, and no driver shall permit the transporting, carrying, possessing or having, of any alcoholic beverages within the passenger area of any motor vehicle, which is being operated upon a public way, except in the original container and with the seal unbroken.

- (i) This section shall not apply to exclusive possession by a passenger in a taxicab or limousine; on a chartered bus or a similar motor vehicle licensed to transport passengers for hire; provided however, the driver of such vehicle is prohibited from consuming or having any alcoholic beverages within his/her reach.
- (ii) This section shall not apply to a recreational vehicle, provided the alcoholic beverage is kept in a container with an airtight lid which is stored in a closed cabinet, refrigerator, or other storage compartment located outside the reach of the driver of the vehicle.
- (iii) Any evidence of (a) an alcoholic beverage container in the passenger area of such vehicle and (b) alcoholic consumption by the driver shall be prima facie evidence that such driver has disobeyed this Section.

The exemption applicable to chartered buses under Section 14-26 (i) and (ii) does not apply to any vehicle being used for school purposes.

Sections 14-27 through 14-30 reserved.

**ARTICLE IV.**  
**MISCELLANEOUS OFFENSES**

**Section 14-31. Littering.**

No person shall intentionally place, throw, or otherwise deposit any waste, litter, garbage, or trash on the public streets, alleys, highways, sidewalks, ditches, drains, streams, or bodies of water within the City of Nixa, except as permitted by this Code or other City ordinance.

No person shall intentionally place, throw, or otherwise deposit any waste, litter, garbage, or trash on property owned by another person without the permission of the owner or occupant of such property. (858 5/94)

**Section 14-32. Destruction of Property.**

No person shall tamper with, break, cut, deface or injure, in any manner whatsoever, any house, building, fence, gate, sign, ornament or shade tree, shrubbery, lamp post, awning post, telephone, telegraph or electric light pole or wire, or fire alarm box or wire, or any other property of any kind belonging to another.

**Section 14-33. Peace Disturbance.**

A person commits the crime of peace disturbance if:

- (1) He unreasonably and knowingly disturbs or alarms another person or persons by:
  - (a) Loud noise; or
  - (b) Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient; or
  - (c) Threatening to commit a crime against any person; or
  - (d) Fighting; or
  - (e) Creating an noxious and offensive odor;
- (2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing;
  - (a) Vehicular or pedestrian traffic; or
  - (b) The free ingress or egress to or from a public or private place.

**Section 14-34. Common Assault.**

If any person shall unlawfully and willfully strike, beat, wound or assault any other person in such a manner not as to constitute a felonious assault, he shall be deemed guilty of a common assault and upon conviction shall be punished in accordance with Section 1-12.

### **Section 14-35. Loitering.**

No person shall loiter, loaf or lounge at the corner of streets, or in the vicinity of any place of amusement, public school, church, hotel, restaurant, eating house, or in or upon any street, avenue, alley or sidewalk within this City, and refuse to disperse or vacate such place when requested to do so by any police officer, or at the request of the person in charge of such church, school or place of amusement.

### **Section 14-36. Window Peeping.**

No person shall look, peep or peer into, or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through such window to observe any person undressed, or in the act of dressing or undressing. The intent of this section is to make it unlawful to engage in the act commonly referred to as being a “peeping tom”.

### **Section 14-37. Use of Firearm or Projectile Weapon in the City Limits.**

No person shall fire or discharge any firearm, or projectile weapon within the city limits of Nixa, Missouri; provided, however, that this section shall not apply to any officer discharging a firearm in the execution of his/her official duties, nor shall it apply to residents who have obtained a permit from the Chief of Police which specifically prescribes the time, place, and type of firearm which may be discharged.

Definitions:

Firearm - any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Projectile Weapon - any bow, crossbow, pellet gun, slingshot, or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

(1088 5/99)

### **Section 14-38. Prohibiting Nudity or Obscenities in City.**

It shall be unlawful for any person to appear upon any street, avenue, alley, park, public place or place open to public view, in a state of nudity or in any indecent or lewd attire, or to make any indecent exposure of his person, or be guilty of any unseemly, obscene or filthy act, or any lewd, indecent, immoral or insulting conduct, language or behavior.



#### **Section 14-39. Prohibiting Concealed Weapons.**

No person shall, in the City of Nixa, wear under his clothes or conceal upon or about his person, any pistol or revolver, slingshot, brass knuckles or knuckles or any other metal, club or any knife with the blade exceeding 4" in length, or any other dangerous or deadly weapon. (858 5/94)

#### **Section 14-40. Stealing.**

As used in this section, the following words shall have the following meanings:

- a. Property: Everything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument, and all things defined as property under the laws of the State of Missouri.
- b. Steal: To appropriate by exercising dominion over property in a manner inconsistent with the rights of the owner, either by taking, obtaining, using transferring, concealing, or retaining possession of his property.

It shall be unlawful for any person to intentionally steal, take, and carry away within this City the property of another, either without his consent or by means of deceit. Those deemed guilty, and upon conviction before the police judge, shall be punished as provided by Section 1-12.

A person who appropriates lost property shall not be deemed to have stolen the same within the meaning of this section, unless such property is found under circumstances, which gives the finder knowledge of, or means of inquiry as to the true owner.

(784 12/92)

#### **Section 14-41. Offense of Resisting or Obstructing a Police Officer.**

No person shall resist or obstruct a City police officer making an arrest or serving any legal writ, warrant, or other process or executing or attempting to execute any other duty imposed upon him by the laws of the State of Missouri or other ordinances of the City of Nixa, Missouri.

##### **Section 14-41-1. False Reports to Police.**

It shall be unlawful for any person knowingly to make a false report to the police department or to any officer thereof.

(858 5/94)

**14-42. Violation for Loitering Upon Closed Parking Lots.**

No person, except the owner, tenant or other person in possession or their invitees, shall loiter upon or about any public or private parking lot or upon any parking lot provided for the customers, business invitees or employees of any commercial or industrial establishments at any time any such public or private parking lot shall be closed to use by the public or any such commercial or industrial lot which shall be closed to use by customers, business invitees, and employees. Any such person found loitering upon any such lot or facility at any time that signs have been previously erected giving notice that the lot is closed to use after a certain hour which is designated thereon shall be presumptively upon the lot in violation of this section, which presumption shall be rebuttable. The term "private parking lot" shall, in addition to its customary meaning, include lots or areas devoted to the storage or display of new or used motor vehicles by dealers therein.

No person shall leave any vehicle unoccupied on any business parking lot, except during the time such persons are in the business building or with the knowledge and consent of the operator of such business. The owner of the vehicle or lessee of said vehicle shall be presumed to be responsible for leaving any such vehicle on the premises. (#887 11/94)

**Section 14-43. Trespass.**

- A. Any person who shall willfully enter or go upon the premises of another without permission or license for any unlawful purpose or who shall refuse to leave the premises of another upon being ordered to do so by the owner of the premises or by any person in charge thereof or with authority to give such order, shall be guilty of a violation of this section.
- B. No person shall willfully enter or remain upon or in any land, structure, vehicle, aircraft or watercraft with knowledge that he is not authorized or privileged to enter or remain upon or in such land, structure, vehicle, aircraft or watercraft if:
  - a. He enters upon or in the land, structure, vehicle, aircraft or watercraft after such entry upon or in has been forbidden by a personal communication of the owner or person authorized by the owner to make such communication, or he remains upon or in the land, structure, vehicle, aircraft or watercraft after he has been ordered to leave by the owner or person authorized by to do so order; or
  - b. The land, structure, vehicle, aircraft or watercraft is posted in a reasonable manner, which would ordinarily come to the attention of intruders.

The provisions of subsection (B) shall not apply to cases involving landlords and tenants.

**Section 14-44. Possession, Control and Sale of Narcotic Drugs.**

No person other than a licensed pharmacist or druggist, duly registered practicing physician, licensed veterinarian, or licensed dentist shall manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic component part, or any marijuana, or any barbiturate, except upon prescription of a duly licensed physician, nor shall any person possess any apparatus, device or instrument for the unauthorized use of narcotic drugs. Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished according to the general penalty provisions of the Code of Ordinances of the City of Nixa, Missouri, or otherwise provided for by law.

**Section 14-45. Prohibiting Use of Heavy Equipment During Certain Hours.**

The use of heavy equipment including bulldozers and dump trucks or blasting activity within the City of Nixa other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Saturday excluding holidays observed by the City of Nixa is prohibited, except and then only with a permit from the City Clerk which shall be rescinded on any complaint concerning noise or dust during the prohibited hours being registered by a resident. This prohibition does not apply to roadwork by or on behalf of the City, County or State.

**Section 14-46. Purchase or Possession of Tobacco Products by Persons Under 18 Years of Age.**

It shall be unlawful for any person under the age of 18 years to purchase or possess or attempt to possess cigarettes, cigarette tobacco, cigarette wrappers, cigars, pipe tobacco, smokeless tobacco or other tobacco products. (#1234 4/03)

**Section 14-47. Affrays (Fighting in Public).**

If any two (2) or more persons in any public place in this city shall voluntarily or by agreement engage in any fight or use any blows or violence toward each other in angry or quarrelsome manner, or do each other any willful mischief, or if any person shall assault another and strike him in any public place to the terror or disturbance of others, the person so offending shall be deemed guilty of a misdemeanor. (784 12/92)

**Section 14-48. Unlawful Entry.**

Every person who shall be guilty of breaking into or entering the dwelling house of another, any church, school, commercial building, vacant building, or outbuilding without permission or license of the owner or person in charge thereof, for any unlawful purpose, shall be guilty of a misdemeanor. (784 12/92)

**Section 14-49. Financial Responsibility Required.**

1. No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this City, unless such operator, or the owner of the vehicle, maintains financial responsibility, which covers the operation of that vehicle by such operator.
2. No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this City, unless such operator exhibits proof of financial responsibility upon demand of a police officer, which proof covers the operation of that vehicle by such operator.
3. For purposes of this section, the term “financial responsibility” shall mean the ability to respond in damages for liability occurring after the effective date of proof of such financial responsibility, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Twenty-Five Thousand Dollars (\$25,000.00) because of bodily injury to or death of one person in any one accident, and subject to said limit for one person, in the amount of Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two or more persons in any one accident, and in the amount of Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one accident.
4. Proof of financial responsibility may be shown by any of the following:
  - a. An insurance identification card issued by a motor vehicle insurer or by the Director of Revenue of the State of Missouri for self-insurance, as provided by Section 303.024 of the Revised Statutes of Missouri. A motor vehicle insurance policy, a motor vehicle liability insurance binder, or receipt which contains the name and address of the insurer, the name and address of the named insured, the policy number, the effective dates of the policy and a description by year and make of the vehicle, or at least five digits of the vehicle identification number or the word “Fleet” if the insurance policy covers five or more motor vehicles, shall be satisfactory evidence of insurance in lieu of an insurance identification card.
  - b. A certificate of the State Treasurer of Missouri of a cash deposit as provided by Section 303.240 of the Revised Statutes of Missouri.
  - c. A surety bond filed with the Director of Revenue of the State of Missouri, as provided by Section 303.230 of the Revised Statutes of Missouri.

5. Proof of financial responsibility shall be carried at all times in the insured motor vehicle or by the operator of the motor vehicle if the proof of financial responsibility is effective as to the operator rather than to the vehicle. The operator of the motor vehicle shall exhibit the proof of financial responsibility on the demand of any police officer that lawfully stops such operator while that officer is engaged in the performance of the duties of his office.
6. Failure of any person who operates a motor vehicle on the street, alley or highways of this City to exhibit proof of financial responsibility on the demand of any police officer who lawfully stops such person shall be prima facia evidence that such person, or that the owner of the vehicle, does not maintain financial responsibility as required by this section. It shall be an absolute affirmative defense to a violation charged under paragraph 1. of this section that the operator of a motor vehicle, or the owner of the vehicle, did maintain financial responsibility which covered operation of the vehicle by such operator on the date of the violation. It shall be a mitigating circumstance to a violation charged under paragraph 1. of this section that the operator, subsequent to the date of the offense, and prior to a trial or guilty plea, obtained and maintained financial responsibility which covers operation of motor vehicles by such operator.
7. The standard fine for violation of this section shall be \$100.00 for individuals who are stopped and found to be without insurance and who do not procure insurance prior to trial or their plea of guilty. The fine is mitigated to \$25.00 for individuals who do, in fact, procure insurance during that interim period prior to trial or disposition of their ticket. Individuals who can prove that they, in fact, had insurance at the time of the traffic stop, but were unable to show proof of insurance will not be fined nor will they be assessed costs. (794 3/93)

**Section 14-50. Unlawful Use of Laser Beam Devices.**

It shall be unlawful for any person to focus, point or shine a laser beam directly or indirectly on another person in such a manner as is intended to harass, annoy, or potentially cause bodily harm to said person. (1082 4/99)

**Section 14-50-1. Prohibiting Pocket Bikes and Motorized Scooters on Public Property.**

A. Definition:

Self Propelled vehicles equipped with either an electric motor or an internal combustion engine with piston displacement of less than 50 cubic centimeters; has two or more wheels; has a seat or operating platform with a height of less than 27 inches, measured from lowest point of the seat or operating platform, and is ineligible for a state certificate of title.

- B. No person shall operate such a vehicle as defined herein upon the streets, highways, alleys, or sidewalks of the City or any property owned by the City.
- C. Nothing in this section shall be interpreted to apply to electric personal assistive mobility devices as defined in RSMo. 307.205.1 (11/05 #1389)

**Section 14-50-2 Closing Time for the City Owned Property used for Parks and Recreation Purposes.**

All City owned property used for parks and recreation purposes within the city limits shall be open for use for programs or events sponsored or approved by the city, or for which a special event permit has been issued, during the hours of 6:00 a.m. through 11:00 p.m. unless otherwise approved by the City Administrator, or the Parks Director, or other authorized Parks Department employees. It shall be unlawful for any person to present upon any City owned property used for parks and recreation purposes when such property is not open for use. Any person violating this ordinance, upon plea of guilty or conviction shall be punished in accordance with Section 1-12. (#1550 9/08)

**ARTICLE V**  
**OBSCENE CONDUCT AND DISTRIBUTION OF OBSCENE MATERIAL**

**Section 14-51. Definitions.**

The following definitions shall apply to this Article:

Adult Business- Any business enterprise where: 1) Fifteen percent (15%) or more of the gross floor space is devoted to; or 2) Fifteen percent (15%) or more of the retail floor space is devoted to; or 3) Ten percent (10%) or more of the sales of the business are derived from:

1. The sale, display or rental of goods that are designed for use in connection with specified sexual activities or that emphasize matters depicting or relating to specified sexual activities or specified anatomical areas: or
2. That has one of the following business purposes:
  - (a) The providing of entertainment where performances(s) are live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
  - (b) The providing of non-medical services related to specified sexual activities or specified anatomical areas.
3. The definition of adult business also includes, but is not limited to, any and all of the following, as defined herein:
  - (a) Any of the following businesses offering goods for sale or rent:

Adult retail establishment-An establishment which offers for sale or rent, any one or more of the following: instruments, devices, gifts, or paraphernalia which are designed for use in connection with specified sexual activities or clothing that graphically depicts specified anatomical areas or any of the materials sold or rented in an adult bookstore defined herein.

Adult outlet media-An establishment that has rental, sale or offers for viewing off the premises or other use of any adult media.

Adult bookstore – An establishment which offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films, videotapes or any form of visual representation which are distinguished or characterized by their emphasis on matter

depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult outlet media – An establishment that has rental, sale or offers for viewing off the premises or other use of any adult media.

Adult news rack - 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.

Adult newsstand - A freestanding structure, vehicle or booth which offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(b) Any of the following businesses providing entertainment:

Adult entertainment business - Any enterprise providing adult entertainment to which the public, patrons or members are invited or admitted.

Adult motion picture theater-An establishment containing a room with seats facing a screen or projection areas, where the business is the exhibition to customers of films, videotapes, slides or motion pictures which are intended to provided sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult theater- An establishment located in an enclosed building where the business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas or live performers, for observation by customers and patrons.

Adult entertainment cabaret – An establishment in which the business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances; or material which is characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult entertainment studio – (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) an



establishment whose premises is physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and in which the business is providing entertainment which features materials or live performances characterized by an emphasis on or relating to specified sexual activities or the exhibition of specified anatomical areas.

Adult encounter parlor studio-An establishment in which the business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

Body painting studio-An establishment in which the business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displayed for the customers' view of specified anatomical areas.

Adult arcade-An establishment or that part of an establishment, which regularly features or otherwise offers to customers, in a viewing area which is designed for occupancy by no more than one person, any live, filmed or videotaped exhibition, performance or dance of any type by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear in such attire, costume or clothing so as to expose to view specified anatomical areas.

Nude modeling agency-An establishment in the business of offering for compensation the viewing of the human body when the subject's body is displayed for the customers' view of specified anatomical areas.

(c) Any of the following businesses that provide services:

Bath house -An enterprise in which the business is offering baths with other persons present who are nude or displaying specified anatomical areas.

Adult motel-An enterprise in which the business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are

distinguished or characterized by an emphasis on the depiction or description of specified sexual activities of specified anatomical areas, or rents or sub-rents room accommodations for less than six hours at a time.

Adult entertainment-Any live exhibition, performance or dance characterized by the exposure of any specified anatomical area even if covered by translucent clothing, or by specified sexual activities, or by appearance of persons in attire, costume or clothing so as to emphasize or expose, even through opaque clothing, the view to specified anatomical areas.

Customer-any person who:

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

Distribute-Means to transfer possessions of in person, by mail, by agent or by any other means whether with or without consideration.

Employee-Any and all persons, including managers, entertainers and independent contractors, who work in or at, or render any services whatsoever, directly related to the operation of an adult business.

Entertainer-Any person who provides adult entertainment within an adult business as defined in this section, whether or not a fee is charged or accepted for entertainment.

Manager-Any person, who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult business.

Minor-Any unmarried person who is less than eighteen (18) years of age.

Operator-Any person owning, operating, conducting or maintaining an adult business.

Public place-Any areas generally visible to public view including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

Server-Any person who serves food or drink at an adult business.

Specified anatomical areas-Less than completely and opaquely covered:

- a. Human genitals, pubic region or pubic hair; or
- b. Buttock; or
- c. Female breast or breasts below a point immediately above the top of the areola; or
- d. Any combination of the foregoing; or (Human male genitals in a discernibly erect state, even if completely and opaquely covered).

Specified sexual activities-Actual or simulated acts of masturbation, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of actual or apparent stimulation or gratification, any actual or simulated acts of sadomasochistic abuse, or the use of animals or inanimate objects in acts of actual or apparent sexual stimulation or gratification, as such terms are defined in the pornography and related offenses chapter of the Missouri Criminal Code.

#### **Section 14-52. Unlawful Erotic Activities.**

- (a) It shall be unlawful for any entertainer or employee to fondle, caress, or touch any customer or other entertainer or employee in any manner in or on a specified anatomical areas or for any customer to fondle, caress, or touch any entertainer or employee or other customer in any manner in or on a specified anatomical area whether such specified anatomical areas are clothed, unclothed, covered or exposed.
- (b) It shall be unlawful for any entertainer to perform at a distance of less than ten (10) feet from customers or to touch any customer while performing.

- (c) It shall be unlawful for any entertainer to perform on a stage that is not raised at least two (2) feet above the areas(s) where the customer or customers sit or stand.
- (d) It shall be unlawful for any customer to tip, pay, give a gratuity or other thing of value to any entertainer or to someone else on his or her behalf, and it shall be unlawful for any entertainer to solicit or accept from a customer in any manner any tip, payment, gratuity or other thing of value either directly or indirectly.
- (e) It shall be unlawful for an entertainer or employee to perform any specified sexual activities as defined herein, wear, or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices, animals or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.
- (f) It shall be unlawful for an entertainer or employee to be visible from the exterior of the adult business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
- (g) It shall be unlawful to operate an adult business in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

**Section 14-53. License Required.**

- (a) It shall be unlawful for any person to operate or maintain an adult business within the City of Nixa until the owner of such business has applied to the office of the City Clerk for a license to operate such business and such license has been duly approved by the Board of Aldermen, or to operate such establishment after such license has been revoked or suspended by the City, or has expired, as set forth in this article.
- (b) It shall be unlawful for any adult business to allow a manager to work at or an entertainer to perform on premises within the City of Nixa until such manager or entertainer has applied to the office of the City Clerk for a license and such license has been duly issued by the City Clerk, or to work at such business after such license has been revoked or suspended by the City, or has expired, as set forth in this article.
- (c) No licensed entertainer shall perform in any adult business that does not have a valid license as required by this article

- (d) Every owner, operator, manager, entertainer or other employee required to be licensed by this article shall post such license in a conspicuous place on the licensed premises so it is readily available for inspection by City of Nixa authorities responsible for enforcement of this article yet is not viewable from the public areas of the business.

**Section 14-54. Application for License; Aldermen Consideration; Renewal.**

- (a) An application for license for the operation of an adult business in the City of Nixa shall be obtained from the City Clerk.
- (b) Each such application shall be submitted in the name of the person proposing to conduct or operate the adult business and shall be notarized. All applications shall contain the following information:
  - 1. The business name, address and telephone number of the establishment, a description of the adult business to be performed on the premises, and the name or names of the owner of the premises where the adult business will be located.
  - 2. The name, residence address, home telephone number, occupation, dates and place of birth and social security number of the applicant.
  - 3. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation or a limited liability company, the same information for all corporate officers, directors and stockholders, and all limited liability company managers and members.
  - 4. The addresses of the applicant, or of all partners, or of all corporate officers and directors, or of all limited liability company managers of members, for the five years immediately prior to the date of the application.
  - 5. A description of the adult business or similar business history of the applicant, or of all partners, or of all corporate officers and directors: or of all limited liability company managers and members, whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefore, and the activity of occupation subjected to such action, suspension or revocation.
  - 6. A statement of each and every business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors, or of all limited liability company managers and members,

for the three years immediately preceding the date of the application.

7. A statement from the applicant, or from each partner, or from each corporate officer and director, or from each limited liability company manager and member, that each such person has not been convicted of, released from confinement for conviction, or diverted from prosecution on:
  - (a) A felony criminal act within five years immediately preceding the application; or
  - (b) A misdemeanor criminal act within five years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse, pornography or related offenses as defined in the Missouri Criminal Code or the criminal code of the jurisdiction in which the offense was charged or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled substances Act or other statutes or ordinances. The statement shall also indicate that no applicant, partner or corporate officer or director has been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application, where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.
  - (c) Upon submission of each such application, the Police Department shall review the information contained therein and verify the qualifications of the applicant. The City Board of Aldermen shall, within 45 days, consider the application at a regular session. The applicant shall be present and in person at the meeting when said application is considered by the Board of Aldermen. Failure to appear will be grounds for denial of the application. If the application meets all of the requirements as set forth in this article, the City Board of Aldermen may issue a license for operation of the adult business. Such license shall be issued until December 31 of the year in which such license is issued, or December 31 of the next year if the license is issued after October 1. All licenses issued under this article are subject to the fee schedule in Chapter 11, Licenses and Business Regulations, Article 1, Business Licenses of this code, and must be renewed annually in the same manner as provided above.

8. On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed Missouri physician stating that within ninety (90) days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease.
  9. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.
  10. A statement under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provision of this Article.
- (c) Upon submission of each such application, the Police Department shall review the information contained therein and verify the qualifications of the applicant. The City Board of Aldermen shall, within 45 days, consider the application at a regular session. The applicant shall be present and in person at the meeting when said application is considered by the Board of Aldermen. Failure to appear will be grounds for denial of the application. If the application meets all of the requirements as set forth in the article, the City Board of Aldermen may issue a license for operation of the adult business. Such license shall be issued until December 31 of the year in which such license is issued, or December 31 of the next year if the license is issued after October 1. All licenses issued under this article are subject to the fee schedule in Chapter 11, Licenses and Business Regulations, Article I, Business Licenses of this code, and must be renewed annually in the same manner as provided above.

**Section 14-55. Transferability Revocation and/or Suspension of License.**

- (a) License issued under this article shall not be transferable, either to any person, persons or other entities.
- (b) Any license issued under this article may be suspended by the City Clerk and subject to possible revocation by the Board of Aldermen upon a showing in any municipal or circuit court of probable cause leading to formal charges against the applicant, manager, operator, owner or part owner of the business so licensed, for any misdemeanor or felony offense. The suspension shall be lifted upon dismissal of such charges, acquittal in a court of law, or, in the case of a manager, upon the installation of a new manager.
- (c) Any license issued under this article may be revoked by the Board of Aldermen upon a showing:

1. Of violation of the standards of this article.
2. That such license was obtained through false statements in the application for such license or renewal thereof.
3. That the owner or operation, or any partner, or any corporate officer or director, or any other individual holding such a license has become disqualified from having such a license by a conviction as provided in Section 14-54 and/or Section 14-58 of this article; or
4. That the license failed to make a complete disclosure of all information in the application for such license or renewal thereof.

**Section 14-56. Location of Adult Business.**

- (a) An adult business shall be located within the City of Nixa's M1 (Light Manufacturing) or M2 (Heavy Manufacturing) zone district.
- (b) No adult business shall be located or situated at less distance than one thousand five hundred (1,500) feet from any property occupied by a public or private school, day care center, church or place of worship, hospital, public park or any property used for residential purposes. This distance shall be measured by a straight line from the nearest point on the property boundary of the tract occupied by the adult business to the nearest point on the property boundary or the tract occupied by one of the aforementioned uses.
- (c) No adult business shall be located or situated at less distance than one thousand five hundred (1,500) feet from another adult business. This distance shall be measured by a straight line from the nearest points on the property boundaries of the tracts occupied by the adult business.
- (d) Variances to the location standards of this section shall not be approved by the Board of Adjustment in accordance with Chapter 23, Article III, Part II, Section 1 through 6.

**Section 14-57. Business Records.**

Owners and operators of an adult business shall maintain business records that include the names, addresses and ages of all entertainers and employees for a period of two (2) years. Said list or lists shall be made available to the City of Nixa Police Department upon request at any time.



**Section 14-58. Manager and Entertainer License.**

- (a) An application for an adult business manager or entertainer license for work at an adult business in the City shall be obtained from the City Clerk.
- (b) Each such application shall be submitted in the name of the person proposing to be an adult business manager or entertainer and shall be notarized. All applications shall contain the following information:
  - 1. The name, residence address, home telephone number occupation, date and place of birth and social security number of the applicant.
  - 2. The business name, address and telephone number of the business where the applicant intends to work.
  - 3. A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution:
    - (a) A felony criminal act within five years immediately preceding the application; or
    - (b) A misdemeanor criminal act within five years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse, pornography or related offenses as defined in the Missouri Criminal Code or the criminal code of the jurisdiction in which the offense was charged, or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances. The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application, where such municipal ordinance violation involved sexual offenses indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.
  - 4. Documentation that the applicant has attained the age of 18 years at the time the application is submitted.
  - 5. A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article.

- (a) Upon submission of each such application, the Police Department shall review the information contained therein and verify the qualifications of the applicant. The City Clerk shall then issue the license for the adult business manager or entertainer. Such license shall be issued until December 31 of the year in which such license is issued, or December 31 of the next year if the license is issued after October 1 but prior to January 1. All licenses issued under this article are subject to a \$500.00 application deposit. The City shall use this deposit to pay for all costs and expenses incurred for the application's processing. The applicant prior to City issuance shall pay costs and expenses not covered by the \$500.00 deposit. The City shall reimburse applicant all remaining portions of deposit not used for the application's examination.
- (b) Such license shall not be issued if the applicant has been convicted of, released from confinement for conviction of, or diverted from prosecution on any of the crimes as set forth in paragraph 3 or Section 14-58 (b).

**Section 14-59. Manager Responsibility.**

- (a) A licensed adult business manager shall be on duty at any adult business at all times during which the premise is open for business. The name and license number of the manager on duty shall be prominently posted during business hours.
- (b) It shall be the responsibility of the manager on duty to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's license issued by the City of Nixa.

**Section 14-60. Operational Criteria.**

- (a) No adult business may be open or in use between the hours of 1:30 a.m. and 12:00 p.m.
- (b) Only persons 18 years of age or older shall be permitted on the premises of any adult business.
- (c) The premises of all adult businesses shall be physically arranged in such a manner that the manager has a specific office area and that an unobstructed view of the entire premises including the entire interior portions of any booths, cubicles, rooms or stalls is maintained from the manager's office area. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. Occupancy of all booths, cubicles, rooms or stalls shall be limited to not more than one person.

- (d) All adult businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, of which uppercase letters shall be at least two inches high and lowercase letters at least one inch high which shall read as follows:

THIS ADULT BUSINESS IS REGULATED  
AND LICENSED BY THE CITY OF NIXA, MISSOURI

ENTERTAINERS ARE:

Not permitted to engage in any type of sexual conduct or to fondle, caress, or touch any employee, customer or other entertainer in any manner in or on the genitals, pubic region, buttock or female breasts, or to permit any employee, customer or other entertainer to fondle, caress, or touch in any manner the genitals, pubic region, buttock or female breasts of said entertainer.

Not permitted to solicit or receive from a customer in any manner any tip, payment, gratuity or other thing of value either directly or indirectly.

CUSTOMERS ARE:

Not permitted to fondle, caress, or touch any entertainer, employee or other customer in any manner in or on the genitals, pubic region, buttock or female breasts.

- (e) Separate dressing rooms for men and women shall be maintained on the premises.

**Section 14-61. Compliance With Code Requirements.**

- (a) Any adult business licensed under this article shall comply with all other requirements of the Code of the City of Nixa as now or in the future may be adopted.

**Section 14-62. Distributing Obscene Material to Minors.**

- (a) It is unlawful for a person knowingly to distribute material related to specified sexual activities or specified anatomical areas to a minor.

**Section 14-63. Displaying Obscene Items to Minors.**

- (a) It is unlawful for a person knowingly to permit a minor who is not accompanied by his parent or lawful guardian to enter or remain on an adult

entertainment premises where there is visibly displayed any materials related to specified sexual activities or specified anatomical areas.

**Section 14-64. Exhibiting Obscene Live Conduct to a Minor.**

- (a) It is unlawful for a person knowingly to engage in or participate in, manage, produce, sponsor, present or exhibit obscene live conduct to a minor.

**Section 14-65. Display of Explicit Sexual Materials Generally.**

- (a) Display. It is unlawful for a person knowingly to:

1. Display any explicit sexual material or sadomasochistic abuse at newsstands or any other business establishment frequented by minors under the age of eighteen (18) years or where said minors are or may be invited as a part of the general public; or

2. Permit or authorize the display of any explicit sexual material or sadomasochistic abuse at newsstands or any other business establishments frequented by minors under the age of eighteen (18) years or where said minors are or may be invited as a part of the general public; or

When requested by the police department of the City, to fail to promptly remove from display from property in his possession or under his control, any explicit sexual material or sadomasochistic abuse, at newsstands or other business establishments frequented by minors under the age of eighteen (18) years or where said minors are or may be invited as a part of the general public.

- (b.) Removal. Where it appears that this Chapter or any part of this Chapter is being or about to be violated, the Mayor or City Attorney of the City of Nixa, may commence and maintain, in the name of the City, an action in the Circuit Court to enjoin the display of any explicit sexual material. No provisions of this Section shall be construed to prohibit the prosecution for violation of the provisions of this Section in the Municipal Court.
- (c.) Penalty. Any person violation this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than two hundred dollars (\$200.00) or be imprisoned in jail for not less than five (5) days or be punished by both such fine and imprisonment or be fined not more than five hundred dollars (\$500.00) or be imprisoned in jail for not more than sixty (60) days or be so punished by both such fine and imprisonment.
- (d.) Restrictions. Nothing in this Chapter shall be construed so as to prohibit or restrict any political subdivision or any department, agency, office or facility thereof, or any employee or agent thereof when engaged in the performance

of his official duties, or any person in the conduct of a legitimate activity for bona-fide educational, scientific or medical purposes.

(e.) Definitions. Words and phrases contained in this ordinance shall be deemed to have certain meanings, as follow:

1. Explicit sexual materials means:

(a.) Any picture, photograph, or other pictorial representation, that depicts actual or simulated “specified sexual activities”; or

(b.) Any portion of a book, magazine, newspaper or other printed or written material; or any video tape, DVD, or any other recorded medium whose content is made up in whole or in dominant part of depictions or descriptions of “specified sexual activities” or “specified anatomical areas”.

(#1600 7/09)

**Section 14-66. Repealed Ordinance #1085 7/09)**

**Section 14-67. Nude Conduct.**

(a) It is unlawful for a person knowingly to voluntarily and intentionally appear in public or in a public place or in place open to the public or open to public view in a state of nudity, or to employ, encourage, or procure another person to so appear.

**Section 14-68. Obscene Live Conduct.**

(a) It is unlawful for a person to voluntarily and intentionally engage in an act of obscene live conduct in a public place or a place open to the public or open to public view, or to employ, encourage, or procure another person to so appear.

**Section 14-69. Exceptions.**

(a) Nothing contained in Sections 14-51 through 14-65 of this ordinance shall be construed to apply to:

1. The purchase, distribution, exhibition, or loan of any material by any library, school, or accredited institution of higher learning.
2. The purchase, distribution, exhibition, or loan of any work of art by any museum of fine arts, school or accredited institution of higher learning.

- (b) Nothing contained in Section 14-66 through 14-67 of this ordinance shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, accredited institution of higher learning or other similar establishment which is devoted to such exhibitions, presentations, show or performances as a form of expression of opinion, communication speech, ideas, information, drama or art, as differentiated from commercial or business advertising, promotion or exploitation of nudity or obscene live conduct or the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial business or business enterprise such as a hotel, motel, bar, nightclub, tavern or dance hall.
- (c) This section is not to be construed to interfere with film or publications concerning historical or medical science.

**Section 14-70. Severability.**

If any section, subsection or clause of this article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

**Section 14-71. Penalties.**

Any violation of any part of this article shall be deemed a misdemeanor and shall be subject to punishment as prescribed in Section 1-12 of City of Nixa Code, and every day such violation shall continue shall be considered a separate offense.

(1085 5/99)

Sections 14-72 through 14-85 reserved.

**ARTICLE VI**  
**SMOKING REGULATIONS**

**Section 14-86. Designation of Nonsmoking and Smoking Places.**

- A. No person shall possess lighted smoking materials in any form including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products, in the following places:
1. Any area accessible to the public within a commercial establishment including, but not limited to banks, office buildings, restaurants, offices and stores that retail gasoline products or food items for preparation by the consumer at a location other than the store, and any other retail store.
  2. Any vehicle of public transportation including, but not limited to, buses, limousines for hire and taxi cabs;
  3. Elevators;
  4. Restrooms;
  5. Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
  6. Any public area of a health care facility, health clinic, or ambulatory care facility including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, doctors' offices, and dentists' offices; provided hospitals and rest homes may accommodate smokers by providing separate rooms for smokers;
  7. Any indoor place of entertainment or recreation including, but not limited to, gymnasiums, theaters, concert halls, arenas and swimming pools.
  8. All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
  9. Any other enclosed area used by the public not specifically posted as a smoking area;

10. Rooms in which meetings and/or hearings open to the public are held, except where such rooms are in a private residence;
  11. Any area where food is displayed for sale or consumption;  
or
  12. Inside any building or designated portion of a building, public or private, where signs have previously been erected prohibiting smoking.
- B. Notwithstanding any other provision of this Section to the contrary, possession of lighted smoking materials in any form shall not be prohibited in the following areas unless the owner of the property or the person in control thereof conspicuously posts the area as a nonsmoking area:
1. An entire room or hall which is used for private social functions, provided the seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;
  2. Limousines for hire and taxicabs, where the driver and all passengers affirmatively consent to smoking in such vehicle;
  3. Performers upon the stage, provided the smoking is part of a theatrical production;
  4. Designated areas of shopping malls;
  5. Places where more than fifty percent (50%) of the volume of trade or business carried on is that of the blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers' sundries;
  6. Outside eating area(s) at any restaurant.
  7. Private residences.
  8. Areas designated as employee smoking areas and which are not accessible to the general public.



C. Designation of Smoking Areas:

1. The owner, manager, operator, or person who otherwise controls the use of any establishment or facility described in Subsection A shall designate the premises as “NO Smoking”: and shall post a sign in accordance with Subsection E unless subsection A & B permits the designation of an area for smoking. If designated smoking areas are permitted under provisions of Subsection A & B, then the owner, manager operator or person who otherwise controls the use of the facility may designate areas of the facility for smoking by posting signs stating the facility has designated smoking and nonsmoking areas; provided however, the designation of smoking areas shall not exceed a reasonable area needed to accommodate the customary and usual demand for such areas.

D. Where smoking areas are designated, existing physical barriers and functioning ventilation systems shall be used to minimize the irritating and toxic effects of smoke in adjacent nonsmoking areas. This provision shall not be construed to require fixed structural or other physical modification in providing these areas or to require operating of any existing heating, ventilating and air conditioning system in any manner which decreases its energy efficiency or increases its energy efficiency or increases its electrical demand, or both, not shall this provision be construed to require installation of new or additional heating, ventilating or air conditions systems;

E. The proprietor or other person having control of a place within Subsection A shall:

1. Prominently post “NO SMOKING” signs, with letters of not less than one inch in height, or the international “NO SMOKING” symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it in every place where smoking is regulated by this ordinance.
  - a. The Proprietor or other person in charge shall not knowingly permit, cause or allow any person to violate the provisions of this ordinance.
  - b. The Proprietor or other person in charge shall take all reasonable steps necessary to enforce the terms of this Article without being limited to giving personal notice to the alleged violator that they are acting contrary to

local law and are subject to receiving a citation of violation of this Article

2. In addition:

- a. Every theater owner, manager, or operator shall post signs conspicuously in the lobby stating smoking is prohibited within the theater or auditorium, except in those areas in the lobby which may be designated for smoking and in the case of motion picture theaters, such information shall be shown upon the screen for at least five (5) seconds prior to the showing of each feature motion picture.
- b. Every public portion of grocery stores and food markets is required to have posted 'NO SMOKING' signs at specific locations throughout each market as follows: signs must be visible to people entering the market, people at meat and produce counters, and people in all checkout lanes.

F. Penalty for violation.

1. A person (proprietor, other person in charge, employee or patron) commits an offense if the person:
  - a. Knowingly smokes in a restaurant where smoking is prohibited by this Article; or
  - b. Knowingly or by criminal negligence fails to post any signage required by this Article; or
  - c. Knowingly or by criminal negligence designates or maintains a smoking area in violation of the requirements of this Article; or
  - d. Knowingly or by criminal negligence violates any other provision of this Article.
2. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine of one hundred dollars (\$100.00) for a first violation, and two hundred fifty dollars (\$250.00) for each subsequent violation.

3. A proprietor, other person in charge who fails to comply with the provisions of this Article shall be guilty of an infraction punishable by:
  - a. A fine of two hundred fifty dollars (\$250.00) for a first violation
  - b. A fine of five hundred dollars (\$500.00) for each additional violation.
4. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.
5. In addition to the fines established by this Article, violation of this Article by a proprietor or other person in charge may result in the suspension or revocation of any permit or license issued to that person for the premises on which the violation occurred.

G. This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

H. The authority to administer the provisions of this Article is vested in the Nixa City Administrator and his/her duly authorized representative(s). Whenever the need arises the city Administrator or authorized designee(s) may call upon other department of the City to aid in the enforcement of the provisions of this Article.

Notice of the provisions of this Article shall be given to all applicants for a restaurant business license located within the corporate limits of the City of Nixa.

Any citizen who desires to register a complaint under this Article may initiate enforcement with the City of Nixa Code Enforcement Officer.

(#1472 2/07)

Sections 14-87 through 14-100 reserved.

**ARTICLE VII**  
**OFFENSES OF HARASSMENT**

**SECTION 14-101. DEFINITIONS; DETERMINATION OF LOCATION OF OFFENSE.**

**A. DEFINITIONS** For purposes of Section 14-102, 14-103 and 14-104 the following words shall have the meaning set out herein:

1. **COURSE OF CONDUCT:** A pattern of conduct composed of a series of acts, which may include electronic or other communications, over a period of time, however short, evidencing continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct”. Such constitutionally protected activity includes picketing or other organized protests.

2. **HARASS:** To engage in a course of conduct that serves no legitimate purpose that:

- a. Would cause a reasonably prudent person to suffer substantial emotional distress and that actually causes substantial emotional distress to that person; or
- b. If the course of conduct or communication is engaged in with respect to a person who is or who purports to be seventeen (17) years of age or under and in doing so and without good cause.
  - i. Knowingly or recklessly frightens, intimidates, disturbs, or causes emotional distress to such other person; or
  - ii. Knowingly makes a misrepresentation or conceals a material fact relating the identity, age, residence, or location of himself or herself; or
  - iii. If the course of conduct engaged in by such person would cause a prudent parent or guardian to reasonably fear substantial emotional distress on the part of the minor who is the target of such conduct.

3. **ELECTRONIC COMMUNICATION:** The origination, admission, dissemination, transmission, or reception of data, images, signals, sounds or other intelligence or equivalence of intelligence of any nature over any communication system by any

method including but not limited to a fiber optic, electronic, magnetic, optical, digital, or analog method. By way of example, “electronic communication” includes but is not limited to electronic mail, internet-based communications, pager service, electronic text messaging.

4. **ELECTRONIC COMMUNICATION DEVICE:** Any instrument, equipment, machine, or other device that facilitates telecommunication, including; but not limited to a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

5. **STALKING:** When a person purposely and repeatedly harasses or follows with the intent of harassing another person.

**B. DETERMINATION OF LOCATION OF OFFENSE**

For purpose of Sections 14-102, 14-103 and 14-104, an offense alleged to have been committed by means of a writing, by telephone, by an electronic communications device or by any other means of communications, may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

**SECTION 14-102: HARASSMENT**

A. A person commits the offense of harassment if he or she:

1. knowingly communicates in person, in writing, by telephone, or by means of any electronic communications device or by any other means of communication a threat to commit any felony to another person and in doing so frightens, or intimidates, or disturbs or causes emotional distress to such other person; or
2. when communicating with another person, in writing, in person, by telephone, by means of any electronic communications device, or by any other means of communication, knowingly uses coarse language or expression that is unwanted and offensive to one of average sensibility; or
3. knowingly frightens, or intimidates, or disturbs or causes emotional distress to another person by making a telephone call anonymously; or

4. knowingly communicates with another person who is or who purports to be seventeen (17) years of age or under and in doing so and without good cause:
  - a. recklessly frightens, or intimidates, or disturbs or causes emotional distress to such other person; or
  - b. knowingly makes a misrepresentation or conceals a material fact relating to the identity, age, residence or location of himself or herself; or
5. knowingly makes repeated unwanted communication to another person; or
6. recklessly and without good cause engages in any other act that frightens, or intimidates, or disturbs or causes emotional distress to another person.

B. Harassment shall be a misdemeanor and shall be punishable as provided in Section 1-12 of the Municipal Code of Ordinances of the City of Nixa, Missouri.

#### **SECTION 14-103: CYBER-HARASSMENT**

A. A person commits the offense of cyber-harassment if with the intent to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass any other person, he or she:

1. transmits or causes the transmission of an electronic communication or knowingly permits an electronic communication to be transmitted from an electronic communication device under the person's control to such other person or a third party:
2.
  - a. Using any lude, lascivious, indecent or obscene words images or language or suggesting the commission of any lude or lascivious act; or
  - b. Anonymously or repeatedly whether or not conversation occurs; or
  - c. Threatening to inflict injury on the person or property of the person communicated with or any member of his or her family or household; or
  - d. Knowingly frightens, or intimidates, or disturbs or causes emotional distress to another person by communicating by

means of an electronic communication device using a false or anonymous identification; or

3. transmits or causes the transmission of an electronic communication, or knowingly permits a electronic communication to be transmitted from an electronic communications device under his or her control, to a third party for the purpose of instigating, initiating, prompting or otherwise bringing about or causing such third party to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass such other person.

B. Cyber-harassment shall be a misdemeanor and shall be punishable as provided in Section 1-12 of the Municipal Code of Ordinances of the City of Nixa, Missouri.

#### **SECTION 14-104: STALKING**

A. Any person who purposely and repeatedly harasses or follows with the intent of harassing another person commits the offense of stalking.

B. Stalking shall be a misdemeanor and shall be punishable as provided in section 1-12 of the Municipal Code of Ordinances of the City of Nixa, Missouri  
(1522 2/11/08)

Sections 14-105 through 14-120 reserved.