

KANSAS

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Chapter 21. Crimes and Punishment

Article 42. Crimes Against the Public Safety

21-4201. Criminal use of weapons.

(a) Criminal use of weapons is knowingly: ...

(6) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(7) selling, manufacturing, purchasing, possessing or carrying a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger; or

(8) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight.

(b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (2) and (3) to possess such weapons.

(c) Subsection (a)(4) shall not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto; or

(6) special deputy sheriffs described in K.S.A. 1999 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(d) Subsections (a)(1), (6) and (7) shall not apply to any person who sells, purchases, pos-

sesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(6) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(6); and

(3) in possession of commercially manufactured devices which are: (A) Owned by the law enforcement agency; (B) in such officer's possession only during specific operations; and (C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(6), (7) and (8) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(6), (7) and (8) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) It shall be a defense that the defendant is within an exemption.

(i) Violation of subsections (a)(1) through (a)(5) is a class A nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity level 9, nonperson felony.

21-4202. Aggravated weapons violation.

(a) An aggravated weapons violation is a violation of any of the provisions of K.S.A. 21-4201 and amendments thereto by a person who:

(1) Within five years preceding such violation has been convicted of a nonperson felony under the laws of Kansas or any other jurisdiction or has been released from imprisonment for such nonperson felony; or

(2) has been convicted of a person felony pursuant to the Kansas laws or in any other jurisdiction which is substantially the same as such crime or has been released from imprisonment for such crime, and has not had the conviction of such crime expunged or been pardoned for such crime.

(b)(1) Aggravated weapons violation is a severity level 9, nonperson felony for a violation of subsections (a)(1) through (a)(5) or subsection (a)(9) of K.S.A. 21-4201 and amendments thereto.

(2) Aggravated weapons violation is a severity level 8, nonperson felony for a violation of subsections (a)(6), (a)(7) and (a)(8) of K.S.A. 21-4201 and amendments thereto.

21-4203. Criminal disposal of firearms.

(a) Criminal disposal of firearms is knowingly:

(1) Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age;

(2) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(3) selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in subsection (b), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in the possession of a firearm at the time of the commission of the offense, or has been released from imprisonment for such a crime, and has not had the conviction of such crime expunged or been pardoned for such crime; or

(5) selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the offense.

(b) Subsection (a)(4) shall apply to a felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a or 65-4127b, K.S.A. 1999 Supp. 21-3442 or 65-4160 through 65-4164, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony.

(c) Criminal disposal of firearms is a class A nonperson misdemeanor.

21-4204. Criminal possession of a firearm.

(a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of any provision of the uniform controlled substances act under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of any provision of the uniform controlled substances act, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a or 65-4127b, K.S.A. 1999 Supp. 21-3442 or 65-4160 through 65-4164, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event; or

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer.

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(c) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3) or (a)(4) is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.

21-4204a. Criminal possession of firearm by a juvenile.

(a) Criminal possession of a firearm by a juvenile is knowingly possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age.

(b) Criminal possession of a firearm by a juvenile is a class A nonperson misdemeanor. A

second or subsequent violation is a severity level 8, nonperson felony.

(c) It shall be a defense to a prosecution of criminal possession of a firearm by a juvenile if such person less than 18 years of age was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in paragraphs (1) through (4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 21-3211, 21-3212 or 21-3213 and amendments thereto.

(d) This section shall be part of and supplemental to the Kansas criminal code.

21-4205. Defacing identification marks of a firearm.

(a) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

(c) Defacing identification marks of a firearm is a class B nonperson misdemeanor.

21-4206. Confiscation and disposition of weapons.

(1) Upon conviction of a violation or upon adjudication as a juvenile offender for a violation of K.S.A. 21-4201, 21-4202, 21-4204 or 21-4219, and amendments thereto, and K.S.A. 21-4204a, any weapon seized in connection therewith shall remain in the custody of the trial court.

(2) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be destroyed, forfeited to the law enforcement agency seizing the weapon for use within such agency or traded to another law enforcement agency for that agency's use or forfeited to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

Chapter 48. Militia, Defense and Public Safety

Article 19. Sale and Purchase of Certain Firearms

48-1901. Definitions. As used in this act, unless the context otherwise requires, the phrase "a state contiguous to this state" means any state having a common border with Kansas. All other words and phrases used in this act shall have the meanings respectively ascribed to them in the federal gun control act of 1968.

48-1902. Sale or delivery of rifle or shotgun to resident of contiguous state; restrictions. It is hereby declared to be lawful for an importer, manufacturer, dealer or collector licensed under the federal gun control act of 1968, whose place of business is in this state, to sell or deliver a rifle or shotgun to a resident of a state contiguous to this state, subject to the following restrictions and requirements:

(a) The purchaser's state of residence must permit such sale or delivery by law;

(b) The sale must fully comply with the legal conditions of sale in both such states; and

(c) Prior to the sale or delivery for sale of the rifle or shotgun, the purchaser and the licensee must have complied with all of the requirements of section 922 (c) of the federal gun control act of 1968, applicable to interstate transactions other than at the licensee's business premises.

48-1903. Purchase or receipt of rifle or shotgun in contiguous state by resident of Kansas; restrictions. It is hereby declared to be lawful for a resident of this state to purchase or receive delivery of a rifle or shotgun in a state contiguous to this state, subject to the following restrictions and requirements:

(a) The sale must fully comply with the legal conditions of sale in both such states; and

(b) Prior to the sale or delivery for sale of the rifle or shotgun, the purchaser and the licensee must have complied with all of the requirements of section 922 (c) of the federal gun control act of 1968, applicable to interstate transactions other than at the licensee's business premises.

48-1904. Nonapplication of act, when. The provisions of this act do not apply to:

(a) Transactions between importers, manufacturers, dealers and collectors licensed under the federal gun control act of 1968;

(b) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes; and

(c) a person who is engaged in hunting or in participating in any organized rifle or shotgun match or contest in a state other than his or her state of residence, and whose rifle or shotgun has been lost or stolen or has become inoperative in such other state, and who purchases a rifle or shotgun in such other state from a licensed dealer, if such person presents to such dealer a sworn statement:

(1) That his or her rifle or shotgun was lost or stolen or became inoperative while hunting or participating in any such match or contest in such other state; and

(2) identifying the chief law enforcement officer of the political subdivision in which such person resides, to whom such licensed dealer shall forward such statement by registered mail.

[Current through 2004 Legislative Session, including 2004 Kan. Sess. Laws 83 (SB 431)]

Code of the City of Topeka

Chapter 54. Criminal Code

Article IV. Offenses Against Public Safety

Division 2. Weapons

54-101. Carrying of deadly weapons.

(a) It shall be unlawful for any person who is not an officer of the law, or a deputy to such officer: ...

(3) To allow a minor, either through negligence of the owner or an intentional act by the owner, to have access to or gain possession of a firearm, loaded or unloaded except as provided in K.S.A. 32-920. This subsection shall not apply if the minor obtains the firearm as a result of unlawful entry by any person.

(b) This section shall not apply to those persons exempt under the provisions of K.S.A. 21-4201 or amendments thereto, or to those persons licensed under the provisions of chapter 30, article XI.

(c) For any violation of this section, the municipal judge shall, upon conviction, order any such weapons to be confiscated and the weapon shall, whenever it is no longer needed for evidentiary purposes in the discretion of the trial court, be destroyed. Unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion may direct.

54-105. Furnishing weapons to minors. It shall be unlawful for any person to sell, give, loan or otherwise furnish any pistol or revolver by which a cartridge may be exploded, or any dirk, Bowie knife, knucks, slingshot or other dangerous weapons to any minor.

[Code of the City of Topeka current through Ord. 18312, adopted Aug. 24, 2004]

Wichita City Code

Title 3. Business - Regulations and Licensing

Chapter 3.08. Miscellaneous Fees

3.08.050. Sales of firearms. The nonrefundable application fees for the permits required under Section 5.88.015 of this code to sell one or more firearms shall be as follows: (1) the application fee for a permit to engage in business as a dealer shall be three hundred dollars per application; and (2) the application fee for a permit to make an isolated sale of firearms shall be twenty dollars per application.

Title 5. Public Safety and Morals

Chapter 5.88. Weapons

5.88.010. Unlawful use of weapons.

(1) Unlawful use of a weapon is knowingly: ...

(f) Carrying in any vehicle under one's immediate control, any loaded firearm, except when on one's land or in one's abode or fixed place of business;

(g) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or ...

(2) Subsections (1)(a), (b), (c), (d), (e), (f) and (h) shall not apply to or affect any of the following:

(a) Law enforcement officers, or any person summoned by any such officers to assist in mak-

ing arrests or preserving the peace while actually engaged in assisting such officer;

(b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(3) Subsection (1)(d), (e) and (f) shall not apply to or affect the following:

(a) Watchmen, while actually engaged in the performance of the duties of their employment;

(b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto. ...

(6) It shall be an affirmative defense that the defendant is within an exemption.

(7) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(8) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation which is a firearm to be destroyed or forfeited to the Wichita police department. Any weapon forfeited to the Wichita police department shall be utilized by the police department or sold or traded to a federally licensed wholesale gun dealer for materials to be used by the Wichita police department. Proceeds from any such sale shall be used for law enforcement purposes by the Wichita police department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section other than subdivision (a) of this subsection shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsection (7)(a) and (b) above.

5.88.015. Permit requirements and other restrictions upon the purchase and sale of firearms, handguns and assault weapons.

1. **Definitions.** As used in this section, the following terms shall have the following meanings, unless the context clearly indicates a different meaning:

Assault Weapon. An "assault weapon" is: (a) any semiautomatic action, center fire rifle or carbine that accepts a detachable magazine with a capacity of twenty rounds or more; (b) any semiautomatic shotgun originally designed with a factory magazine capacity of more than seven rounds; (c) any semiautomatic handgun that is a modification of a semiautomatic action, center fire rifle or carbine that accepts a detachable magazine with a capacity of twenty rounds or more; (d) any semiautomatic handgun originally designed to accept a detachable magazine with a capacity of twenty rounds or more; (e) any semiautomatic handgun that is a modification of an automatic firearm; (f) any firearm from which two or more shots may be discharged by a single function of the firing device; (g) any firearm which may be restored to any operable weapon of a type described in clause (a), (b), (c), (d), (e) or (f), above; and, any part or combination of parts designed or intended to convert a firearm into any operable firearm of a type described in clause (a), (b), (c), (d), (e) or (f), above, or from which any such weapon may be readily assembled. However, the term "assault weapon" does not include any firearm that uses .22 caliber rimfire ammunition with a detachable magazine having a capacity of twenty rounds or less, any shotgun with a factory magazine capacity of seven rounds or less, or any weapon that has been modified to render it permanently inoperable or permanently inrestorable to any operable weapon of a type described in any of clauses (a), (b), (c), (d), (e) or (f), above.

"Business day" means any day on which both state offices and city offices are open.

"Dealer" or "firearms dealer" means any person, firm, limited liability company or corporation engaged in the business of selling firearms at wholesale or retail.

"Firearm" means any weapon designed to shoot bullets or other potentially lethal missiles by means of an explosive charge, including but not limited to handguns, rifles and shotguns, but excluding any weapon within the definition of "antique firearm" as set forth in U.S.C. Title 18 Section 921(a)(16). The definition of "firearm" also shall not include any weapon which has been rendered permanently inoperable.

"Handgun" means any firearm designed (originally or by modification) to be held and fired with one hand.

"Purchaser" means any person, other than a dealer, who orders, purchases, rents, or obtains a handgun or assault weapon (other than by devise, bequest, intestate succession or other transfer arising by operation of law) or who attempts to do so. Any transfer pursuant to a security interest shall not be considered a transfer "by operation of law" within the meaning of this subsection.

"Seller" means any person, firm, limited liability company or corporation that sells, rents, pledges, attempts to sell, rent or pledge, or accepts a purchaser's order for, or a purchaser's proposal or offer to purchase, rent or obtain a firearm.

2. **Waiting Period.** No seller shall transfer possession of any handgun or assault weapon to any person other than a person who is both a federally licensed and locally licensed dealer, until five business days have passed from and

after receipt of the purchaser's order for such weapon.

3. Sales Permit. Any person, firm, limited liability company or corporation desiring a permit authorizing the sale of one or more firearms shall make application to the chief of police in writing, setting out in the application the full name and residence of the applicant if an individual; and if a firm or corporation, the name and residence of each of its members or officers.

4. Sales Permits for Dealers. If a sales permit is sought to engage in business as a dealer, rather than in connection with an isolated sale or sales, the applicant shall also set out the location at which it is intended or desired to conduct business and the normal hours when such business will be open, shall commit to keep all required records, and shall provide proof, by certified copies or similar means, that the applicant holds all required state and federal licenses.

5. Sales Permits for Nondealers. If a sales permit is sought for an isolated sale or sales, rather than to engage in business as a dealer, a separate permit shall be required for each sale (other than a sale to a person who is both a locally licensed and federally licensed dealer). No more than three permits for isolated sales shall be granted to the same seller during any twelve-month period.

6. Time for Issuance of Sales Permits. Following receipt of the application, the chief of police (or such other person within the Wichita police department as the chief of police may designate in writing) shall, within seven business days, issue a permit to the applicant, provided that the applicant has paid to the city treasurer the required license fee and is not ineligible to hold a sales permit under this section, and further provided that it otherwise appears that the applicant will be able and willing to comply with all applicable ordinances, zoning regulations, and federal and state laws. Failure to issue a permit within the prescribed time period shall be reviewable by the city council as a denial of such permit.

7. Background Check and Persons Ineligible for Dealer Sales Permit. Prior to the issuance of any dealer sales permit, the applicant shall provide the police with the applicant's full name, race, sex, age and date of birth. Thereupon, the chief of police shall cause the Wichita police department, within the period established by the foregoing subsection for issuance of a sales permit, to check all criminal records readily accessible to such department, for any information pertinent to the history and background of the applicant. No dealer sales permit shall be issued to any person shown by the background check to be a person: (a) under twenty-one years of age; (b) under indictment, charge or information for, or previously convicted of, any felony; (c) convicted of multiple offenses in which consumption of alcohol was an element, if any of such convictions were within the seven years preceding the date of application; (d) convicted of any drug-related offense, including any offense in which consumption of any drug(s) or possession of any drug(s) or drug paraphernalia was an element; (e) convicted of any offense in which possession, use or disposition of a firearm was an element; (f) convicted of any offense in which the use or threatened use of a weapon against another person was an element; (g) convicted of any offense under laws punishing defined hate crimes, spousal abuse, child abuse, parental abuse, forcible rape or assault; (h) adjudicated a mental defective or committed or admitted (voluntarily or involuntarily) to any mental

institution, including the psychiatric ward of any hospital; or (i) subject to an outstanding arrest warrant, irrespective of the offense involved.

8. Application Fees and Permit Duration. Nonrefundable fees shall be required in connection with any application for a permit to engage in business as a dealer, and for any sales permit sought for isolated sales, in the respective amounts set forth in Section 3.08.050 of this code as the application fees for such permits. Any sales permit issued to a dealer hereunder shall be effective for a period of no more than one year. Any sales permit issued to a non-dealer for an isolated sale shall be effective only for the transaction for which it is issued, and only for a period of three months following its date of issuance. An exception to the numerical limitation on a permit for an isolated sale may be granted at the discretion of the chief of police in cases where a nondealer seeks a permit for the purpose of selling an entire gun collection intact. A sales permit shall be revoked upon the permit-holder's conviction of any violation of this section, and shall also be revoked in the event that the police department discovers evidence that the permit holder has become ineligible to hold a sales permit. Denial of an application for sales permit, or revocation of a sales permit shall be reviewable by the city council, and the burden of proof to establish entitlement to the permit shall be upon the applicant.

9. Background Check and Persons Ineligible to Buy. Prior to the sale of any handgun or assault weapon, the seller shall (within one business day of receiving the purchaser's order) contact the Wichita police department to determine whether the records maintained by or accessible to the Wichita police department contain any information indicating that the purchaser is ineligible under federal law, state law or this code to purchase the weapon concerned. For this purpose, the seller shall provide the police with the purchaser's full name, race, sex, age and date of birth. Thereupon, the chief of police shall cause the Wichita police department, within five business days, to check all criminal records readily accessible to such department, for any information pertinent to the history and background of the purchaser. If the seller receives a notice from the police department clearing the sale within five business days of the seller's request for a background check, the seller may complete the sale at the end of such five-business-day period, provided that the seller has no other information indicating that other provisions of this section or other applicable laws or regulations preclude the purchaser from obtaining the weapon in question. No sale shall be made to a purchaser if the police department has not responded clearing the sale to such purchaser, and it shall be the seller's responsibility to check on the status of the background check if seven days have passed after the date of the purchaser's order without police response. No sale shall be made to a purchaser if the police department responds (whether within the five business days following the purchaser's order or otherwise prior to the sale) with a notice or communication to the effect that the police department has discovered information indicating that the receipt or possession of the weapon by the transferee would violate federal, state or local law. The police department will not clear a sale to any person shown by the background check to be a person: (a) under twenty-one years of age; (b) under indictment, charge or information for, or previously convicted of, any felony; (c) convicted of multiple offenses in which consumption of alco-

hol was an element, if any of such convictions were within the seven years preceding the date of application; (d) convicted of any drug-related offense, including any offense in which consumption of any drug(s) or possession of any drug(s) or drug paraphernalia was an element; (e) convicted of any offense in which possession, use or disposition of a firearm was an element; (f) convicted of any offense in which the use or threatened use of a weapon against another person was an element; (g) convicted of any offense under laws punishing defined hate crimes, spousal abuse, child abuse, parental abuse, forcible rape or assault; (h) adjudicated a mental defective or committed or admitted (voluntarily or involuntarily) to any mental institution, including the psychiatric ward of any hospital; or, (i) subject to an outstanding arrest warrant, irrespective of the offense involved. However, the notice to a seller, in the event that a proposed sale is found to be improper, will be limited to a notice to the effect that the police department has discovered information indicating that the receipt or possession of the weapon by the transferee would violate federal, state or local law. Any purchaser who believes that such a notice has been transmitted in error may seek any pertinent correction of records through the procedures established by K.S.A. 22-4709, or any other and further procedures made available by law for such purposes.

10. Limitation on Records Retained. Within twenty business days following a purchaser's order which has resulted in a sale cleared by the police department under the previous subsection, the police department shall destroy all documents received from the seller with information about the purchaser, as well as all documents compiled from information supplied by the seller about the purchaser, and shall keep no record containing information on the purchaser derived from such sources.

11. Prohibition on Sale of Certain Magazines and Magazine or Clip Extensions. It is unlawful for any person or business entity to sell, within the corporate limits of the city (whether concurrent with the sale of a firearm or otherwise), any extension for any magazine or clip, any handgun magazine or clip with a capacity of more than seventeen rounds, or any rifle magazine with a capacity of more than twenty rounds.

12. Prohibition of Sales without Sales Permit. It is unlawful for any seller to sell any firearm within the corporate limits of the city without having the appropriate sales permit as required by this section.

13. Dealer Records. All dealers shall maintain firearms transaction, tax and business records and shall retain the same, subject to inspection by the Wichita police department upon request, for a period of at least seventy-two months from and after the date of the most recent transaction reflected or accounted for in such records.

14. Proof of Insurance and Monitored Security Systems. All dealers keeping a stock of firearms or ammunition for sale on their premises shall maintain insurance against potential damage liabilities and hazards associated with the possession and storage of such materials. Further, all such dealers shall maintain monitored security alarm systems on their premises, and shall present suitable proof of their maintenance of insurance and monitored security systems to the Wichita police department upon request.

15. Inspection of Premises. As a condition of their licenses, all dealers shall permit inspec-

tion of their premises by the Wichita police department and/or Wichita fire department, during regular business hours, upon request.

16. Violation and Penalties. It is unlawful for any seller to violate any of the provisions or fail to fulfill any of the requirements of the foregoing subsections of this section within the corporate limits of the city, and any seller who does so shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

17. Affirmative Defenses. It shall be an affirmative defense to any charge of improper sale brought under the foregoing subsection that: (a) the seller can establish that the sale was made prior to the effective date of the ordinance establishing this code section; (b) the seller can establish that the purchaser was, at the time of the purchase, a law enforcement officer acting within the scope of his or her duties as an officer; (c) the seller can establish that the purchaser was, at the time of the purchase, both a locally licensed dealer and a federally licensed dealer. In addition, it shall be an affirmative defense to any charge of unlawful transfer brought under this section that the transfer at issue occurred by devise, bequest, intestate succession, or otherwise by operation of law; provided, however, that any transfer of ownership pursuant to a security interest shall not be deemed a "transfer by operation of law" within the meaning of this subsection.

18. Exemption for Governmental Entities. None of the provisions of the foregoing subsections of this section shall apply to or affect the acquisition, purchase, possession, transportation, distribution, handling, storage, use or transfer of weapons by a federal agency or instrumentality, municipality, state agency, or any state subdivision, or by any agent of any such entity who has undertaken such conduct on behalf of such entity in the scope of his or her official duties or duties of employment.

19. Severability.

Chapter 5.89. Firearms

5.89.010. Definitions. For the purposes of this chapter, the following terms shall have the meaning ascribed to them in this section:

(a) "**Minor**" means a person who is under the age of eighteen years.

(b) "**Firearm**" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, expanding gases or other combustion. Air rifles, air pistols and BB guns are included in this definition only if capable of expelling projectiles by the sudden release of compressed gas. This term shall not include a firearm which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841, et seq., and any amendments thereto.

5.89.020. Possession of a firearm by a minor prohibited - Exceptions.

(a) Unless otherwise specifically provided herein, it shall be unlawful for a minor to possess any firearm within the city of Wichita, except when the minor is in the presence of and under the direct supervision of a parent, stepparent, grandparent, stepgrandparent, or legal guardian.

(b) Any minor who is not in the presence of and under the direct supervision of his or her parent, stepparent, grandparent, stepgrandparent, or legal guardian may only possess a firearm in the city of Wichita under the following circumstances:

1. During a hunter education class held pursuant to K.S.A. 32-920 and conducted by a Kansas hunter education instructor who is certified by the Kansas Department of Wildlife and Parks, provided said possession is under the supervision of the instructor;

2. During a firearms instructional or safety training class taught by an instructor certified by the National Rifle Association or other nationally recognized hunting, target or sports shooting organization, provided said possession is under the supervision of the instructor;

3. While transporting an unloaded firearm to and from an excursion for lawful hunting of game birds or animals, provided:

(a) The minor is in possession of a valid hunting license, if said license is required by state or federal law for the purposes of the hunting excursion;

(b) The minor is in possession of a valid hunter education certificate issued to said minor;

(c) The firearm, during transportation, is stored in a case, scabbard, or other container, or has a properly engaged trigger locking mechanism, and it is further stored in the trunk area of the motor vehicle, or if the motor vehicle does not have a trunk, then the firearm is further stored in an area of the motor vehicle where it will not be readily accessible to the driver or passengers; and

(d) Ammunition for the firearm is stored in a box or container separate from the firearm.

5.89.030. Forfeiture of firearms possessed by a minor. Except as provided in Section 5.89.040, any firearm seized in connection with a violation of this chapter shall be destroyed by the chief of police whenever the weapon is no longer needed for evidence, or the same shall be forfeited to the Wichita police department. Any weapon forfeited to the Wichita police department shall be utilized by the police department or sold or traded to a federally licensed wholesale gun dealer for materials to be used by the Wichita police department. Proceeds from any such sale shall be used for law enforcement purposes by the Wichita police department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council.

5.89.040. Stolen weapons. Any stolen firearm confiscated in connection with any violation of this chapter shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence.

5.89.050. Penalty. Any minor violating the provisions of this chapter shall be dealt with in accordance with the Kansas Juvenile Offenders

Code, K.S.A. 38-1601, et seq., and any amendments thereto.

5.89.100. Negligent storage of firearms prohibited - Minors gaining access a misdemeanor - Exceptions - Penalty.

(a) Any person who stores or leaves, on a premises or any location a loaded firearm, or an unloaded firearm in close proximity to ammunition for it, where it is reasonably foreseeable that a minor may gain access to the firearm, shall keep the firearm in a securely locked box, locked safe, locked hard case, locked soft case, locked drawer, locked cabinet or other locked container, or shall secure the firearm by installing a trigger lock or other similar device which prevents the normal function and discharge of the firearm. Such locking device shall be in addition to any built-in safety feature of the firearm. This section shall not apply when a firearm is lawfully being carried on a person's body or within such close proximity as to be under the person's immediate control.

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor if, as a result thereof, a minor gains access to a firearm and possesses such firearm in violation of K.S.A. 21-4201 and amendments thereto; K.S.A. 1992 Supp. 21-4203, 21-4203a, or 21-4204, and any amendments thereto; or Chapters 5.88 or 5.89 of the Code of the City of Wichita, Kansas, and any amendments thereto. This section shall not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

(c) The following warning shall be conspicuously posted in every place of business where firearms are sold: "It is unlawful to leave a loaded firearm, or an unloaded firearm with ammunition for it nearby, if it is foreseeable that a minor may gain access to the firearm." The letters in the sign shall be in block form not less than one inch in height.

(d) As used in this section, the term "minor" means any person under the age of eighteen.

(e) As used in this section, the term "firearm" means any loaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, expanding gases or other combustion. Air rifles, air pistols and BB guns are included in this definition only if capable of expelling projectiles by the sudden release of compressed gas. This term shall not include a firearm which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841, et seq., and any amendments thereto.

(f) Any person who violates the provisions of this section shall, upon conviction, be punished by a fine of up to two thousand five hundred dollars or by imprisonment for up to one year, or by both such fine and imprisonment.

(g) In addition to the penalty for violation of the provisions of this section, it shall be the duty of the municipal court judge to order the forfeiture of any weapon seized as set forth in Section 5.88.010(7).