

CHAPTER V. BUSINESS REGULATIONS

Article 1. General Regulations and Licenses

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ARTICLE 1. GENERAL REGULATIONS AND LICENSES

- 5-101. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the city clerk whenever the procuring of the license is required by the city. (Code 1964, 10-101; Code 1986)
- 5-102. **APPLICATION FOR LICENSE.** Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the city clerk shall issue to the applicant a license which shall be signed by the city clerk. It shall be the duty of the city clerk to pay over the amount so collected on each license issued, to the city treasurer of the city. (Code 1964, 10-103; Code 1986)
- 5-103. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. However, the transfer of the stock of a corporate license holder to new ownership shall not require the licensee to transfer or renew its license. (Code 1986)
- 5-104. **LICENSE PERIOD; DURATION.** Unless otherwise provided, licenses shall commence and endure from January 1st and expire on December 31st of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on the 30th day of June or the 31st day of December, next following the date of their issuance. (Code 1986)
- 5-105. **EXEMPTION OF FARMERS.** No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 1986)
- 5-106. **LICENSE FEES.** Unless otherwise provided, the annual license fee for each occupation, business, or profession shall be as shown in the following schedule:

- (a) \$10 per day.
- (b) \$20 per week.
- (c) \$35 per year.

(Code 1964, 10-105; Code 1986)

- 5-107. SAME; WHEN PAYABLE; TIME PERIOD. (a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.
- (b) No license shall be issued until the fee is paid.
 - (c) Licenses shall be renewed on or before the expiration date of the current licenses.
 - (d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.
 - (e) The license for a day shall expire at midnight.
- (Code 1986)
- 5-108. PAYMENT OF FEES; RECEIPT. The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business. (Code 1986)
- 5-109. CONTENTS OF LICENSE. Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named. (Code 1986)
- 5-110. RECORD. The city clerk shall keep a record in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 1986)
- 5-111. DISPLAY OF LICENSE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city. (Code 1964, 10-106; Code 1986)
- 5-112. AMBULANCE SERVICES. All ambulance services operating within the city limits shall obtain a license from the city. This license shall only be granted with the approval of the governing body, on a calendar year basis, and upon the payment of a fee of \$100. The governing body may waive this fee in special circumstances. (Code 1986)

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS

5-201. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting shall mean and include any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with

the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.

(Code 1986)

5-202. LICENSE REQUIRED. It shall be unlawful for any person to engage in the business of a peddler, solicitor or canvasser, as defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk. (Code 1986)

5-203. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

(g) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the chief of police and filed with the application;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations) or violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred.

(k) The applicant's Kansas Sales Tax number.

(Code 1986)

5-204. ISSUANCE; COUNTY RESIDENTS. (a) Except as provided in section 5-209, if the applicant is a current resident of Brown or Nemaha County, Kansas, upon receipt of an application for a license and payment of the license fee, the city clerk shall issue the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The peddler, solicitor or canvasser shall carry the license certificate at all times.

(b) If the applicant is not a current resident of Brown or Nemaha County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-205:206.

(Code 1986)

5-205. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT. (a) Upon receipt of the above application from an applicant who is not a current resident of Brown or Nemaha County, Kansas, the city clerk shall refer the same to the chief of police who shall cause an investigation of the fact stated therein to be made within not to exceed five days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the chief of police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the city clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the chief of police shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The solicitor shall carry the license certificate at all times. (Code 1986)

5-206. SAME; INVESTIGATION FEE. At the time of filing the application, a fee of \$10 shall be paid to the city clerk to cover the cost of investigation of the facts stated in the foregoing application. (Code 1986)

5-207. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-202 shall be in the amount of \$10 per each day, or portion thereof, that the licensee shall solicit within the city limits. In no event, however, shall fees in excess of \$100 be collected from a licensee during any six-month period of time.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license and only between the

hours of 8 a.m. and 6 p.m. No solicitation or sales shall be conducted by any person during any other hours on said date.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by section 5-202 upon the payment of \$35 for any year, and may make solicitations or sales only between the hours of 8 a.m. and 8 p.m., or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; and (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state.

(Code 1986)

5-208. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a six month period prior to the renewal date. The city clerk need not require an additional application under section 5-203 or an additional investigation and investigation fee under sections 5-205:206 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 1986)

5-209. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or chief of police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(Code 1986)

5-210. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.

(Code 1986)

5-211. REGULATIONS. (a) It shall be unlawful for any peddler, solicitor or canvasser to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) Peddlers, solicitors or canvassers are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same.

(Code 1986)

5-212. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public. (Code 1986)

5-213. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, no peddler, canvasser or solicitor, nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Code 1986)

ARTICLE 3. COIN-OPERATED DEVICES

5-301. DEFINITION. Coin-operated device shall mean any machine or device which is coin-operated or otherwise available for hire, which machine or device permits a person or operator to use the device as a game or contest of skill, whether or not registering a score. It shall include, but not be limited to such devices as electronic or mechanical game machines, pool tables, foosball tables, air hockey tables, "pong" games, mechanical rides for children, electronic video games, shooting gallery type games, pinball machines, skill ball, bowling machines, or any other mechanical or electronic games or operations similar thereto. (Ord. 1240, Sec. 2)

- 5-302. LICENSE REQUIRED. It shall be unlawful for any person within the city limits to display for public patronage or keep for operation any coin-operated device without first obtaining a license from the city. Not more than one machine or device shall be operated under one license, and a separate license shall be obtained for each and every machine or device displayed or operated. (Code 1986)
- 5-303. SAME; APPLICATION. Application for a license under this article shall be made to the city clerk by written application and such application for such license shall contain, but not be limited to, the following information:
- (a) The name and address of the applicant, his or her age and date of birth and the name and address of the owner of the device.
 - (b) The place where the machine or device is to be displayed or operated and the business conducted at that place.
 - (c) A description of the machine or device to be covered by the license, including its mechanical features, the name of the manufacturer and the serial number.
 - (d) Whether the applicant or owner has paid a current Federal Occupation Tax for the use or permit to use, on any place or premises within the city, a coin-operated amusement or game device under the Federal Internal Revenue Code.
- Each such application shall be made out in duplicate, one copy being referred to the chief of police and the other copy to be affixed to the license issued. (Code 1986)
- 5-304. SAME; FEE. The license fee for each coin-operated device shall be \$10 per year if issued prior to July 1 and \$5 if issued after July 1 in any year. (Code 1986)
- 5-305. SAME; REVOCATION; NOTICE AND HEARING. Every license issued for public patronage for operation of a coin-operated device is subject to the right, which is hereby especially reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any coin-operated amusement or gaming device, contrary to the provisions of any law of this city, or of the State of Kansas or any federal law. Such license may be revoked by the governing body after written notice to the licensee, which notice shall specify the violation of law with which the licensee is charged if, after a hearing the licensee is found to be guilty of such violations.. (Code 1986)
- 5-306. DISPLAY OF LICENSE. Every license provided by this article shall be maintained permanently at the premises and at the location where the device is to be operated or maintained, and available for inspection by the chief of police upon request. (Code 1986)
- 5-307. TRANSFER OF LICENSE. A license issued under this article may be transferred from one machine or device to another similar machine or device upon application to the city clerk to such effect and giving the description and serial number of the new machine or device. (Code 1986)
- 5-308. TERM OF LICENSE. Each license issued under this article shall expire on December 31 of the year for which it was issued. (Code 1986)