

## **CHAPTER V: BUSINESS REGULATIONS**

### **Article**

- 1. SOLICITORS, CANVASSERS, PEDDLERS**
- 2. COIN-OPERATED DEVICES**



## ARTICLE 1: SOLICITORS, CANVASSERS, PEDDLERS

### Section

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### § 5-101 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CANVASSER** or **SOLICITOR**. Any individual, whether a 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.

**PEDDLER**. 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.

**RESIDENCE.** Includes every separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.

**SOLICITING.** Includes 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;
- (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.

**STREET SALESPERSON.** 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.

**TRANSIENT MERCHANT, ITINERANT MERCHANT or ITINERANT VENDOR.** 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.  
(1996 Code, § 5-201)

#### § 5-102 LICENSE REQUIRED.

(a) It shall be unlawful for any person to engage in any of the activities defined in the preceding section 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.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under § 5-106.  
(1996 Code, § 5-202)

**§ 5-103 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 that 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 driver's 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 that 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; and
  - (k) The applicant's state sales tax number.
- (1996 Code, § 5-203)

**§ 5-104 ISSUANCE; COUNTY RESIDENTS.**

(a) Except as provided in § 5-108, if the applicant is a current resident of Brown or Nemaha County, 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 licensee shall carry the license certificate at all times.

(b) If the applicant is not a current resident of Brown or Nemaha County, a license will not be issued until after investigation and payment of the investigation fee as provided in § 5-105.  
(1996 Code, § 5-204)

**§ 5-105 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, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the facts 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 licensee shall carry the license certificate at all times.  
(1996 Code, § 5-205)

**§ 5-106 LICENSE FEE; TIME LIMITS; EXEMPTIONS.**

(a) Except as provided in division (c) below, the fee for the license required pursuant to § 5-102 shall be in the amount of \$20 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. An annual license may be issued for an annual fee of \$100.

(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 8:00 a.m. and 9:00 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 § 5-102 upon the payment of \$35 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 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;

(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; and

(3) Any not-for-profit or charitable organization as determined by the governing body.  
(K.S.A. 12-1617) (1996 Code, § 5-207)

#### **§ 5-107 RENEWAL.**

All licenses issued shall be subject to renewal upon a showing of compliance with §§ 5-102 and 5-103 within a six-month-period prior to the renewal date. The City Clerk need not require an additional application under § 5-103 or an additional investigation and investigation fee under § 5-105 unless complaints have been received of violations of the conditions in which any license has heretofore been issued. The City Clerk shall not renew or extend any license if 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.  
(1996 Code, § 5-208)

#### **§ 5-108 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.**

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:

(a) Fraud, misrepresentation or false statement contained in the application for license;

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

(c) Any violation of this article;

(d) Conducting a business as defined in § 5-101 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; and

(e) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years before the application date.  
(1996 Code, § 5-209)

#### **§ 5-109 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.  
(1996 Code, § 5-210)

#### **§ 5-110 REGULATIONS.**

(a) It shall be unlawful for any licensee 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) Licensees 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.  
(1996 Code, § 5-211)

#### **§ 5-111 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.  
(1996 Code, § 5-212)



**§ 5-112 DISTURBING THE PEACE.**

Except when authorized in writing by the City Clerk, no licensee 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 that such licensee proposes to sell.

(1996 Code, § 5-213)



## ARTICLE 2: COIN-OPERATED DEVICES

### Section

5-201	Definition
5-202	License required
5-203	Same; application
5-204	Same; fee
5-205	Same; revocation; notice and hearing
5-206	Display of license
5-207	Transfer of license
5-208	Term of license

### § 5-201 DEFINITION.

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**COIN-OPERATED DEVICE.** 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. (1996 Code, § 5-301) (Ord. 1240, passed - -)

### § 5-202 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. (1996 Code, § 5-302)

### § 5-203 SAME; APPLICATION.

(a) 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:

(1) 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;

(2) The place where the machine or device is to be displayed or operated and the business conducted at that place;

(3) 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; and

(4) 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.

(b) 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.  
(1996 Code, § 5-303)

#### **§ 5-204 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.  
(1996 Code, § 5-304)

#### **§ 5-205 SAME; REVOCATION; NOTICE AND HEARING.**

(a) 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 or any federal law.

(b) 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.  
(1996 Code, § 5-305)

#### **§ 5-206 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.  
(1996 Code, § 5-306)

**§ 5-207 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.

(1996 Code, § 5-307)

**§ 5-208 TERM OF LICENSE.**

Each license issued under this article shall expire on December 31 of the year for which it was issued.

(1996 Code, § 5-308)

