

CHAPTER V. BUSINESS REGULATIONS

- Article 1. General Regulations and Licenses
Article 2. Solicitors, Canvassers, Peddlers

ARTICLE 1. GENERAL PROVISIONS

- 5-101 OCCUPANCY CERTIFICATE 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 fee prescribed and procuring such an occupancy certificate from the city clerk whenever the procuring of the occupancy certificate is required by the city. (Code 2004)
- 5-102 APPLICATION FOR OCCUPANCY CERTIFICATE. Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for an occupancy certificate to operate such business. The city clerk shall issue to the applicant an occupancy certificate upon payment of the associated fee. (Code 2004)
- 5-103 NOT ASSIGNABLE OR TRANSFERABLE. No occupancy certificate granted by the city shall be assignable or transferable; nor shall such occupancy certificate authorize any person to do business or act under it but the person named therein, nor at more than one (1) place. There shall be no refunds except as specifically provided. (Code 2004)
- 5-104 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 2004)
- 5-105 OCCUPANCY CERTIFICATE FEE; WHEN PAYABLE; TIME PERIOD.
(a) All fees shall be due and payable before the commencement of a trade, occupation, business or profession for which occupancy certificate fees are required.
(b) No occupancy certificate shall be issued until the fee is paid.
(Code 2004)
- 5-106 PAYMENT OF FEES; RECEIPT. The city clerk shall, upon payment of any fee specified, give a receipt therefore stating the amount paid, the nature of the certificate issued, and to whom issued, and the exact location where the business is to be carried on, and the kind of business. (Code 2004)

5-107 CONTENTS OF THE CERTIFICATE. Unless otherwise provided all certificates shall be dated on the date of their issue, and shall state the name of the applicant, the kind of business he or she desires to engage in and the location thereof, the amount paid and the person having such certificate shall be authorized to carry on the business therein named. (Code 2004)

5-108 DISPLAY OF OCCUPANCY CERTIFICATE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business. (Code 2004)

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 (1) 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 (1) or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitors 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 or 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 2004)

5-202

LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefore 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 section 5-207 (d). (Code 2004)

5-203

SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require an application in writing prepared 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, state identification number or government passport number, date of birth, expiration date of license and description of applicant;
- (d) Identification of vehicle used by applicant including license therefore 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 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;

(h) A statement as to whether or not the applicant has within two (2) 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 therefore, if any, and the city and state where conviction occurred.

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

(j) Each applicant shall pay a fee of \$50 upon making such application with the city clerk. Any permit which issues hereunder shall expire automatically within a two (2) day period after the issuance of the permit. Upon expiration of any such permit, the city clerk can issue a new and/or renewal permit forthwith if no complaints have been received from the residents of the city at no additional charge to the applicant.

Upon any complaints received from the public, the Colwich police department shall immediately deliver revocation of such permit and privileges as issued by the clerk. (Ord. 386, Sec. 1; Code 2004)

5-204

SAME; INVESTIGATION AND ISSUANCE. (a) Upon receipt of the application, the city clerk shall perform a background check of which the cost is to be paid by the applicant in the amount set by the firm or company solicited for this purpose.

(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 city clerk shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same 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 city clerk shall endorse his or her findings and approval on the application 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 business 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. (Code 2004)

5-205

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 \$50 for two (2) day period.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the items set out in the license. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) 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 or 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.

5-206 RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article. 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. (Code 2004)

5-207 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.

(a) The city clerk or chief of police may deny any application or may revoke or suspend 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 or theft, larceny, fraud, embezzlement or any felony within two (2) years prior to the application date. (Code 2004)

5-208 APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police or city clerk in the denial of any 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 2004)

5-209

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. (Code 2004)

5-210

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 2004)

5-211

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 which such licensee proposes to sell. (Code 2004)