

CHAPTER V: BUSINESS REGULATIONS

Article

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ARTICLE 1: GENERAL REGULATIONS

Repealed by Ord. 1434, passed 5-20-2014

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ARTICLE 2: SOLICITORS, CANVASSERS, PEDDLERS

Section

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§ 5-201 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.

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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.

§ 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 therefor in his or her possession and issued by the City Clerk/Administrator.

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(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 § 5-207.

§ 5-203 SAME; APPLICATION REQUIRED.

Before the City Clerk/Administrator 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/Administrator 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 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 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.

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(k) The applicant's Kansas Sales Tax number and City of WaKeeney Sales Tax Number.
(Ord. 1325, Code 1998)

§ 5-204 ISSUANCE; COUNTY RESIDENTS.

(a) Except as provided in § 5-209, if the applicant is a current resident of the county, upon receipt of an application for a license and payment of the license fee, the City Clerk/Administrator 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/Administrator 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 the county, a license will not be issued until after investigation and payment of the investigation fee as provided in §§ 5-205 and 5-206.

§ 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 the county, the City Clerk/Administrator 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/Administrator 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/Administrator 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/Administrator 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.

§ 5-206 SAME; INVESTIGATION FEE.

At the time of filing the application, a fee of \$50.00 shall be paid to the City Clerk/Administrator to cover the cost of investigation of the facts stated in the foregoing application.

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§ 5-207 LICENSE FEE; TIME LIMITS; EXEMPTIONS.

(a) Except as provided in division (c) below, the fee for the license required pursuant to § 5-202 shall be in the amount of \$25.00 per each day, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$1,000.00 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. 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) 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 § 5-202 upon the payment of \$25 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 that 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)

§ 5-208 RENEWAL.

All licenses issued shall be subject to renewal upon a showing of compliance with §§ 5-202 and 5-203 within a six-month period prior to the renewal date. The City Clerk/Administrator need not require an additional application under § 5-203 or an additional investigation and investigation fee under §§ 5-205 and 5-206 unless complaints have been received of violations of the conditions in which any license has heretofore been issued. The City Clerk/Administrator 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.

§ 5-209 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.

The City Clerk/Administrator 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:

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- (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 § 5-201 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/Administrator 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.

§ 5-210 APPEAL TO GOVERNING BODY.

(a) Any person aggrieved by the action of the Chief of Police or City Clerk/Administrator 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/Administrator 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.

§ 5-211 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.

§ 5-212 USE OF STREETS AND SIDEWALKS.

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Except when authorized in writing by the City Clerk/Administrator, 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.

§ 5-213 DISTURBING THE PEACE.

Except when authorized in writing by the City Clerk/Administrator, 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.

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ARTICLE 3: AMUSEMENT DEVICES

Section

5-301	Definition
5-302	License required
5-303	Same; application
5-304	Same; fee
5-305	Same; revocation; notice and hearing
5-306	Display of license
5-307	Transfer of license
5-308	Term of license

§ 5-301 DEFINITION.

AMUSEMENT 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. This definition does not include merchandise vending machines or coin-operated phonographs, televisions or other devices which are not designed for manipulation by the person operating the device.

§ 5-302 LICENSE REQUIRED.

It shall be unlawful for any person to, within the city limits, display for public patronage or keep for operation any coin-operated amusement 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. Not more than two devices shall be operated per establishment without written approval by the governing body.

§ 5-303 SAME; APPLICATION.

(a) Application for a license under this article shall be made to the City Clerk/Administrator 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

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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.

§ 5-304 SAME; FEE.

The license fee for each coin-operated amusement device shall be \$1 per year.

§ 5-305 SAME; REVOCATION; NOTICE AND HEARING.

Every license issued for public patronage for operation of a coin-operated amusement 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 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.

§ 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.

§ 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/Administrator to such effect and giving the description and serial number of the new machine or device.

§ 5-308 TERM OF LICENSE.

Each license issued under this article shall expire one year from the date of issuance.

ARTICLE 4: AUTOMOBILE SALVAGE YARDS

Section

- 5-401 Definition
- 5-402 Permit required
- 5-403 Fences required
- 5-404 Advertisements
- 5-405 Contents not to exceed height of fence
- 5 406 Demolishing and wrecking cars
- 5-407 Open fire
- 5-408 Rubbish and waste matter
- 5-409 Gasoline to be drained
- 5-410 Purchases by operator
- 5-411 Access to police officers
- 5-412 Serial numbers

§ 5-401 DEFINITION.

As used in this article, the term *AUTOMOBILE SALVAGE* shall mean any lot or place which is exposed to the weather, upon which more than five motor vehicles of any kind, incapable of being operated, are placed.

§ 5-402 PERMIT REQUIRED.

(a) No person shall maintain or operate an automobile salvage yard without first having obtained a permit therefor.

(b) Application for a permit shall be made to the City Clerk/Administrator, and shall contain the name and address of the applicant and the location of the premises where the business is to be carried on. A fee of \$50 shall be charged.

§ 5-403 FENCES REQUIRED.

An automobile salvage yard shall be entirely enclosed by a fence seven feet in height, which shall be kept neatly painted and in good repair at all times, and which shall be constructed of plan board or corrugated iron, so as to exclude such yard from the public view.

WaKeeney - Business Regulations**§ 5-404 ADVERTISEMENTS.**

The fence enclosing an automobile salvage shall not be used for bill postings or other advertising purposes, except that a space not larger than six feet by 12 feet may be used for the advertisement of the business of the owner thereof. Where such yard fronts on more than one street, the use of space for advertisement herein permitted, shall extend to each street on which the yard abuts.

§ 5-405 CONTENTS NOT TO EXCEED HEIGHT OF FENCE.

The contents of an automobile salvage shall not be placed or deposited to a height greater than the height of the fence surrounding it.

§ 5 406 DEMOLISHING AND WRECKING CARS.

Work in connection with the demolishing or wrecking of cars shall be permitted only on weekdays between the hours of 7:00 a.m. and 6:00 p.m.

§ 5-407 OPEN FIRE.

No open fire for the burning of rubbish, trash, automobiles, or any parts thereof, or other waste matters, shall be permitted.

§ 5-408 RUBBISH AND WASTE MATTER.

An automobile salvage shall, as far as practicable, be kept clear and clean of all rubbish or waste matter.

§ 5-409 GASOLINE TO BE DRAINED.

All tanks and engines shall be kept thoroughly drained of gasoline.

§ 5-410 PURCHASES BY OPERATOR.

No purchaser operating or maintaining as automobile salvage yard shall purchase any vehicles, or parts or accessories thereof, except between the hours of sunrise and 10:00 p.m.

§ 5-411 ACCESS TO POLICE OFFICERS.

All automobile salvage, together with the books required by this article, shall be at all times open for inspection to all officers of the city having police power, and the zoning officer.

Automobile Salvage Yards

§ 5-412 SERIAL NUMBERS.

No purchaser shall knowingly buy, sell, receive, dispose of, conceal or have in his or her possession any motor vehicle, part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, deface, covered, altered or destroyed for the purpose of concealing or misrepresenting the identify of the vehicle, part or accessory. Every person to whom is offered for sale any motor vehicle, part or accessory from which has been removed, defaced, covered, altered or destroyed the manufacturer's serial number of any number or identification mark shall immediately notify the Chief of Police.

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ARTICLE 5: PAWNBROKERS, JUNK AND SECONDHAND DEALERS

Section

- 5-501 Records to be kept; copy to Police Department
- 5-502 Inspection of records, articles
- 5-503 Purchased from persons under 16 years of age prohibited

§ 5-501 RECORDS TO BE KEPT; COPY TO POLICE DEPARTMENT.

Every pawnbroker, secondhand dealer, and every buyer of secondhand or gold, or silver or diamonds or guns or other secondhand jewelry or secondhand shall keep at his or her place of business, a register, in which he or she shall enter in writing a minute description of all property taken, purchased or received by him or her in the conduct of his or her said business, including any number that may be in or upon any article, together with the time of the purchase and the name and place of residence, giving street and number if within city, of the person selling or leaving said property; also the amount paid for such property, and such entries shall be further duty of every such dealer or buyer to make out and deliver to the Police Department of the city, every day before the hour of 12:00 o'clock noon a legible and correct copy from said register of all property received or purchased and a good description of the person or persons from whom the same were purchased. Person or persons identification should be verified by two types of identification, one of which shall be a photo identification.

§ 5-502 INSPECTION OF RECORDS, ARTICLES.

Such register shall at all times be kept open to the inspection of the Police Department. Such dealer or buyer shall also upon request exhibit to any such officer for inspection any article or articles so purchased or received by him or her.

§ 5-503 PURCHASED FROM PERSONS UNDER 16 YEARS OF AGE PROHIBITED.

No such dealer or buyer shall purchase or receive any such article or property from person or persons under the age of sixteen (16) years.

§ 5-504 STOLEN PROPERTY.

No dealer or buyer shall receive, buy or purchase any property which he or she may, from any cause, have reason to believe or suspect cannot be rightfully or lawfully sold by the person so offering it for sale.

(Ord. 1342, passed - -)

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