

## CHAPTER V: BUSINESS REGULATIONS

### Article

1. GENERAL REGULATIONS AND LICENSING
2. SOLICITORS, CANVASSERS, AND PEDDLERS
3. MOBILE FOOD VENDORS



## ARTICLE 1: GENERAL REGULATIONS AND LICENSING

### Section

5-101 Shuffleboard, billiard and pool tables, and coin-operated machines

#### § 5-101 SHUFFLEBOARD, BILLIARD AND POOL TABLES, AND COIN-OPERATED MACHINES.

Setting up and operating any shuffleboard table, billiard, pool table, video machine, or similar amusement device, the fee for each such device shall be \$1 per table or coin-operated machine, per month for the first table, and \$0.50 per month for each additional table or machine.  
(1994 Code, § 5-113) (Ord. B-350, passed 11-14-1994)



## ARTICLE 2: SOLICITORS, CANVASSERS, AND PEDDLERS

### Section

- 5-201 Definitions
- 5-202 License required
- 5-203 Same; application required
- 5-204 Issuance; county residents
- 5-205 Same; investigation and issuance; non-county resident
- 5-206 Same; investigation fee
- 5-207 License fee; time limits; exemptions
- 5-208 Renewal
- 5-209 Denial, revocation, or suspension of license; notice
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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.

**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.

(1994 Code, § 5-201)

#### § 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.

(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.

(1994 Code, § 5-202)

#### § 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 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.  
(1994 Code, § 5-203)

#### § 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 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 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.  
(1994 Code, § 5-204)

#### § 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 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) (1) 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.

(2) 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.

(1994 Code, § 5-205)

#### § 5-206 SAME; INVESTIGATION FEE.

At the time of filing the application, a fee as set by the governing body shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the foregoing application.

#### § 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 \$75 per each day, \$250 per week, and \$500 per month that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$750 be collected from a licensee per year.

(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) 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 nonprofit or charitable organization as determined by the governing body.

(K.S.A. 12-1617) (1994 Code, § 5-206) (Ord. B-266, passed - -)

#### § 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 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 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.

(1994 Code, § 5-207)

#### § 5-209 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 § 5-201 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; and

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

(1994 Code, § 5-208)

#### § 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.  
(1994 Code, § 5-209)

#### § 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.  
(1994 Code, § 5-210)

#### § 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.  
(1994 Code, § 5-211)

#### § 5-213 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.  
(1994 Code, § 5-212)





## ARTICLE 3: MOBILE FOOD VENDORS

### Section

- 5-301 Purpose
- 5-302 Definitions
- 5-303 License required
- 5-304 License fee
- 5-305 License application
- 5-306 License issuance; denial
- 5-307 License appearance; duration
- 5-308 License displayed
- 5-309 License non-transferable
- 5-310 Mobile food unit standards
- 5-311 License revocation
- 5-312 Municipal offense

### § 5-301 PURPOSE.

The governing body finds that, in order to advance the health, safety and welfare of the residents of the city, it is necessary to regulate various activities, including those of mobile food vendors. (Ord. B-549, passed 8-15-2016)

### § 5-302 DEFINITIONS.

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

**CITY CLERK.** The City Clerk, the interim City Clerk, anyone fulfilling the duties of the City Clerk on either a temporary or a permanent basis, or any designee of the City Clerk.

**MOBILE FOOD UNIT.** Any self-contained vehicle, trailer, cart or other type of conveyance from which food and/or beverage is offered for sale.

**MOBILE FOOD VENDOR.** Any person, corporation, association or other entity, however organized, that offers food and/or beverage for sale from a mobile food unit. (Ord. B-549, passed 8-15-2016)

### § 5-303 LICENSE REQUIRED.

No person, corporation, association or other entity, however organized, shall operate within the corporate limits of the city as a mobile food vendor without first obtaining a valid mobile food vendor's license.

(Ord. B-549, passed 8-15-2016)

### § 5-304 LICENSE FEE.

The application fee for a mobile food vendor's license is \$25. The fee shall not be pro-rated or refunded for any reason, including denial of an application or revocation of a license.

### § 5-305 LICENSE APPLICATION.

Application for a mobile food vendor's license shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the mobile food vendor's license fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information:

- (a) The applicant's full legal name, date of birth, place of birth and Social Security number;
- (b) The applicant's permanent address, business mailing address and telephone number;
- (c) The applicant's valid state sales tax number;
- (d) A brief description of the nature of the business and the food and/or beverage to be offered for sale;
- (e) A copy of a valid state license for food service establishments, if such is required;
- (f) Proof of general liability insurance in the amount of \$100,000 or more; and
- (g) The applicant's signature.

(Ord. B-549, passed 8-15-2016)

### § 5-306 LICENSE ISSUANCE; DENIAL.

(a) The City Clerk shall review each application for a mobile food vendor's license. Within five business days of the application, the City Clerk shall approve the application and shall issue to the applicant a mobile food vendor's license together with an official copy for each mobile food unit identified in the application unless the application is incomplete.

(b) If the application is deficient for any of the reasons set forth in division (a) of this section, then the City Clerk shall deny the application by giving notice of denial to the applicant. Notice of denial shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the applicant of the reason for denial, and shall inform the applicant that he or she has 14 days from the date of the notice

of denial in which to appeal the denial of the application to the governing body.  
(Ord. B-549, passed 8-15-2016)

§ 5-307 LICENSE APPEARANCE; DURATION.

The mobile food vendor's license shall be valid for a period not to exceed one year and shall expire on December 31 of the year in which it is issued.  
(Ord. B-549, passed 8-15-2016)

§ 5-308 LICENSE DISPLAYED.

Mobile food vendors shall display the mobile food vendor's license in a prominent place on a mobile food unit at all times that the mobile food unit is engaged in any of the activities licensed by this article.  
(Ord. B-549, passed 8-15-2016)

§ 5-309 LICENSE NON-TRANSFERABLE.

(a) Mobile food vendors shall obtain the permission of the property owner before engaging in any activities licensed by this article.

(b) Mobile food vendors may only engage in activities licensed by this article on improved surfaces in commercial, industrial and nonresidential special purpose zoning districts.

(c) Mobile food vendors are prohibited from offering for sale any food and/or beverage from a public right-of-way, except as part of a city-approved event.

(d) Mobile food vendors are prohibited from offering for sale any food and/or beverage from any unoccupied or vacant lot, except as part of a city-approved event or pursuant to a city-approved site plan establishing a location for mobile food vendors as a permanent or seasonal element of the site.  
(Ord. B-549, passed 8-15-2016)

§ 5-310 MOBILE FOOD UNIT STANDARDS.

All mobile food units shall comply with the following standards:

(a) All mobile food units shall be maintained in good, operable condition and shall, at all times, be capable of being moved.

(b) All mobile food units, unless completely self-contained, shall be located in close proximity to and shall be connected safely to electricity and other necessary utilities, such that they do not pose a threat to the public health, safety and welfare.  
(Ord. B-549, passed 8-15-2016)

**§ 5-311 LICENSE REVOCATION.**

(a) The City Clerk may revoke any mobile food vendor's license issued under this article for one or more of the following reasons:

- (1) Any violation of the provisions of this article;
- (2) Conducting a licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety or welfare of the residents of the city;
- (3) Violation of a site plan requirement for an existing land use; or
- (4) Revocation or denial of any license issued by the state for food service establishments.

(b) Notice of revocation shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the licensee of the reason for revocation, and shall inform the licensee that he or she has 14 days from the date of the notice of revocation to appeal the revocation to the governing body. The City Clerk shall maintain a copy of the notice of revocation in his or her files.  
(Ord. B-549, passed 8-15-2016)

**§ 5-312 MUNICIPAL OFFENSE.**

Operating as a mobile food vendor without a mobile food vendor's license shall be a municipal offense. Any person, upon an adjudication of guilt or the entry of a plea of no contest, shall be subject to a fine of a minimum of \$500 and a maximum of \$1,000.  
(Ord. B-549, passed 8-15-2016)