

ARTICLE 8. PEDDLERS, TRANSIENT MERCHANTS

6-801

DEFINITIONS.

For the purpose of this Chapter, the following words as used herein shall be considered to have the meanings herein ascribed thereto:

- (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 or 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, traveling either by foot, wagon, 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, or portion thereof, 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, wagon, 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, 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, or 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 wagon or stand temporarily located on the public streets or sidewalks of this City as authorized by a permit pursuant to Chapter 16, Article 8, of this Code. (Ord. 5665, Ord. 6159, Sec. II)

6-802

CERTIFICATE OF REGISTRATION.

No person shall engage in the activities as defined in Section 6-801, within the corporate limits of the City without first obtaining a certificate of registration and license therefor. Any applicant for a certificate of registration and license under this Article shall file with the City Clerk a sworn application on a form furnished by the City Clerk, which shall give the following information:

- (A) Name and date of birth of applicant.
- (B) State sales tax number.
- (C) Credentials from the person, firm or corporation or association whom the applicant is employed by or represents.
- (D) Physical description of the applicant.
- (E) Period of time for which the certificate and license is applied.
- (F) Address of the applicant's present place of residence.
- (G) A brief description of the nature of the business and the goods to be sold.
- (H) Location and zoning of any structure, building or vehicle to be used for the activities defined herein.
- (I) Fingerprints of the applicant.
- (J) Whether or not the applicant has ever been convicted of a crime involving moral turpitude or any felony conviction.
- (K) Submit a copy of a paid personal property tax receipt from the Douglas County Treasurer or another county treasurer in the State of Kansas for all goods or merchandise brought into Douglas County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale. (Ord. 5665)

6-803

EXCLUSIONS.

The provisions of this Article shall not apply to:

- (A) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

- (B) Wholesale trade shows or conventions;
- (C) Fairs and convention center activities conducted primarily for amusement or entertainment;
- (D) Any general fair, auction, or bazaar sponsored by any church, religious, or non-profit organization;
- (E) Garage sales held on premises devoted to residential use;
- (F) Sales of agricultural goods raised or produced by the seller and sold at an approved Farmer's Market;
- (G) School sponsored bazaars and sales, and concessions at school athletic events; and,
- (H) Promotional trade or hobby shows conducted within structures which are zoned and site planned for commercial use pursuant to Chapter 20 of the City Code. (Ord. 5665)
- (I) Sidewalk sales conducted by an adjoining retail business or a non-profit organization on not more than three (3) consecutive days and not less than forty-five (45) days since a prior sidewalk sale at the same location. (See Chapter 16, Article 8, for regulation of use of sidewalks.) (Ord. 5665, Ord. 6159)

6-804

ISSUANCE OF LICENSE.

Upon receipt of an application for certificate of registration and license, the City Clerk shall issue a 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. A transient merchant license shall be valid for a period not to exceed five (5) days. Not more than one (1) license may be issued to any transient merchant during any six (6) month period of time. 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 certificate at all times. (Ord. 5665)

6-805

FEES FOR LICENSE; TRANSFERABILITY; EXHIBITION.

The fees for the license required by this Article shall be as prescribed by Section 6-108.16, 6-108.18 and 6-108.19. No license issued under the provisions of this Article shall be used by any person, other than the one to whom it was issued. Any person engaged in activities as described in Section 6-801 shall exhibit their licenses at the request of any citizen. No fee shall be required of one selling products of the farm or orchard actually produced by the seller. (Ord. 5665)

6-806

REVOCATION OF LICENSE.

- (A) The Chief of Police may revoke 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 the business as defined in Section 6-801 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 revocation of a license shall be in writing to the applicant and the City Clerk and set forth the grounds of revocation.
 - (5) Unauthorized use of the public right-of-way for sale or display of merchandise, or for display of an advertising sign.
 - (6) Violation of a site plan requirement for an existing land use or violation of Chapter 20 of this Code (zoning ordinance).
- (B) Any person aggrieved by the action of the Chief of Police or City Clerk in the denial of an application or revocation of a license as provided in this Article, shall have the right of appeal to the Board of Commissioners. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of revocation or denial of the license has been mailed to such applicant's last known address setting forth the grounds for appeal. The Board of Commissioners 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 hearing on revocation. The decision and order of the Board of Commissioners on such appeal shall be final and conclusive. (Ord. 5665)

6-807

DISTURBING THE PEACE.

No peddler, canvasser or solicitor, nor any person in his or her behalf, shall shout, make an outcry, blow a horn, ring a bell or 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. (Ord. 5665)

6-808

STRUCTURES.

No person conducting activities pursuant to this Article shall erect or cause to be erected out of doors any temporary structure, awning, tent, or stand for the purpose of storing, selling, or displaying goods or services without prior approval of a temporary use permitted subject to review as authorized by Chapter 20 of this Code. (Ord. 5665)

6-809

IMPROVED SURFACES/PARKING.

No person shall conduct activities pursuant to this Article on unimproved surfaces, or on a parking lot or aisleway area that constitutes a required parking area under the provisions of Chapter 20 of this Code. (Ord. 5665)

6-810

SETBACKS.

Display of merchandise and parking of vehicles for the sale or display of merchandise shall be subject to the building setback requirements of the zoning district in which any activity subject to the provisions of this Article is being conducted. (Ord. 5665)

- 6-811 **SIGNS.**
Signs shall be limited to one sign per location, not to exceed nine (9) square feet in total area, including lettering or designs painted on or attached to vehicles. (Ord. 5665)
- 6-812 **VEHICLES.**
No transient merchants shall sell products or services directly from any vehicle exceeding three-fourths (3/4) ton in rated load capacity. (Ord. 5665)
- 6-813 **USE OF STREET.**
No peddler shall have any exclusive right to any location in the public streets, nor be permitted a stationary location except as provided in Section 6-801(f). No peddler shall be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this Article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 5665)
- 6-814 **ENFORCEMENT.**
It shall be the duty of any police officer to require any person engaged in the activities as defined in this Article, who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this Article against any person found to be violating the same. (Ord. 5665)

ARTICLE 9. REMOVAL OF SERIAL NUMBERS

- 6-901 **SERIAL NUMBERS; REMOVING, ALTERING.**
No person shall destroy, remove, cover, conceal, alter, deface or cause to be destroyed, removed, covered, concealed, altered or defaced, the manufacturer's original number, or serial number or other distinguishing number or mark on any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article which bears a serial number attached by the manufacturer, with the intent to disguise such property when the person knows or has reason to know such property is stolen. Possession of any such articles shall be prima facie evidence of violation thereof. (Code 1979, 6-901)
- 6-902 **SALE OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS.**
No person shall sell, or offer for sale, any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article from which the manufacturer's original number, or serial number or other distinguishing number or mark has been removed or which has been destroyed, covered, concealed, altered or defaced, knowing or having reason to know such property to be stolen. The sale or offer for sale of any such articles shall be prima facie evidence of violation hereof. (Code 1979, 6-902)
- 6-903 **POSSESSION OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS.**
No person shall buy or in any manner receive, or have in his or her possession any article mentioned in this Article on which the manufacturer's original number, mark, serial number or other distinguishing number or mark has been destroyed, removed, covered, concealed, altered or defaced, with reason to believe the property to be stolen. Possession of any such articles shall be prima facie evidence of violation hereof. (Code 1979, 6-903)
- 6-904 **PENALTY, DISPOSITION OF PROPERTY.**
Any person who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less