

## **CHAPTER V: BUSINESS REGULATIONS**

Article

- 1. GENERAL REGULATIONS AND LICENSES**
- 2. SOLICITORS, CANVASSERS, PEDDLERS**
- 3. SCRAP METAL DEALERS**



**ARTICLE 1: GENERAL REGULATIONS AND LICENSES**

*[Reserved]*



## ARTICLE 2: SOLICITORS, CANVASSERS, PEDDLERS

### Section

- 5-201 Definitions
- 5-202 License required
- 5-203 Same; application required
- 5-204 Investigation and issuance
- 5-205 License fee; time limits; exemptions
- 5-206 Denial, revocation or suspension of license; notice
- 5-207 Appeal to governing body
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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 resident of the city or not, traveling from place to place within the city for the purpose of contacting individuals and requesting donations, or offering for sale any token item, whose intrinsic value does not equal the amount of the required donation or payment.

**PEDDLER**. Any person, whether a resident of the city or not, not having a permanent established place of business in the city traveling from place to place, from house to house, or from street to street, by foot or by any vehicle, carrying or conveying goods, wares, merchandise, or services and offering them for sale and delivering the same to purchasers or soliciting orders and purchases for the sale of goods, wares, merchandise or services, for later delivery, or who, without traveling from place to place, shall sell or offer the same for sale from any temporary stand, or from any wagon, cart or vehicle parked or standing in the city.

(Ord. 1578, passed - -)

### § 5-202 LICENSE REQUIRED.

It shall be unlawful for any person to engage in any activities of a peddler, canvasser or solicitor, as defined in § 5-201, 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. Provided, that such city permit shall not be required if such person has in his or her possession an unrevoked and unexpired permit issued by Shawnee County, authoring such activities.

(Ord. 1578, passed - -)

#### **§ 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 which shall give the following information:

(a) Name 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) 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;

(e) 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; and

(f) 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 traffic infractions) 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.

(Ord. 1578, passed - -)

#### **§ 5-204 INVESTIGATION AND ISSUANCE.**

(a) Upon receipt of the above application from an applicant, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the facts stated therein to be completed within 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 of 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 it shall expire, 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.  
(Ord. 1578, passed 9-20-1993)

**§ 5-205 LICENSE FEE; TIME LIMITS; EXEMPTIONS.**

(a) (1) The fee for the license required pursuant to § 5-202 shall be in the amount of \$50 for a three-day period of operation within city limits, which is the minimum license period. The license may only be provided to an individual, and the same may not be used by other individuals or a business entity with multiple employees engaged in any practice regulated by this chapter.

(2) During the remainder of the calendar year, the license may be renewed for additional three-day periods for a renewal fee of \$10 per renewal. Renewal of any permit will be denied if the applicant has in any way violated the provisions of this chapter.

(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. Licenses may be issued for not to exceed six months in advance of the three-day period of operation. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and sunset.

(c) No license fee shall be required of:

(1) Any person selling products of the farm or orchard actually produced by the seller; and

(2) Any businesses, trades or occupations which are part of affairs or celebrations sponsored by the city or any other governmental subdivision.  
(Ord. 1578, passed 9-20-1993; Ord. 2334, passed 6-20-2016)

**§ 5-206 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.**

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:

(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 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;

(e) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date; and

(f) 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.

(Ord. 1578, passed 9-20-1993)

#### **§ 5-207 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 a statement with the City Clerk setting forth the grounds for the 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.  
(Ord. 1578, passed 9-20-1993)

#### **§ 5-208 USE OF STREETS AND SIDEWALKS.**

Except when authorized in writing by the governing body, no peddler, solicitor or canvasser or any other person shall have the exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted to operate in the sidewalks and streets in any congested area where his or her operations might impede or inconvenience the public.

(Ord. 1578, passed 9-20-1993)

#### **§ 5-209 REGULATIONS.**

(a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality or nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) It shall be unlawful for any peddler, solicitor or canvasser who enters upon property owned or leased by another to willfully refuse to leave such property after having been notified to leave by the owner or possessor thereof.



(c) 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.  
(Ord. 1578, passed 9-20-1993)

**§ 5-210 DISTURBING THE PEACE.**

Except when authorized in writing by the governing body, no licensee nor any person in his or her behalf, shall use any sound amplifying device, upon any public places of the city or upon any private premises in the city for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.  
(Ord. 1578, passed 9-20-1993)

**§ 5-211 PENALTIES FOR VIOLATION.**

Any person found guilty in the Municipal Court of violating any provision of this article shall be fined in the amount of \$100 per occurrence and/or shall be ordered to be confined a term to be fixed by the court, not to exceed five days.  
(Ord. 1578, passed 9-20-1993)



## **ARTICLE 3: SCRAP METAL DEALERS**

### Section

- 5-301 Scrap metal dealers; registration required
- 5-302 Same; definitions
- 5-303 Same; registration; application; fees; penalty
- 5-304 Same; issuance of registration; renewal; renewal fees
- 5-305 Same; penalty
- 5-306 Same; exception
- 5-307 Same; issuance; disqualification
- 5-308 Same; suspension or revocation of registration

### **§ 5-301 SCRAP METAL DEALERS; REGISTRATION REQUIRED.**

On and after the effective date of this code, it shall be unlawful for any business to purchase any regulated scrap metal without having first registered each place of business with the city as herein provided.

### **§ 5-302 SAME; DEFINITIONS.**

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

**REGULATED SCRAP METAL.** Wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.

(1) **BALES OF REGULATED METAL.** Regulated scrap metal properly possessed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(2) **FERROUS METAL.** A metal that contains iron or steel.

(3) **JUNK VEHICLE.** A vehicle not requiring a title as provided in K.S.A. Chapter 8, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(4) **NONFERROUS METAL.** A metal that does not contain iron or steel, including, but not limited to: copper; brass; aluminum; bronze; lead; zinc; nickel; and their alloys.

(5) **TIN.** A metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(6) **VEHICLE PART.** The front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

**REGULATED SCRAP METAL YARD.** Any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.

**SCRAP METAL DEALER.** Any person that operates a business out of a fixed location, and that is also either:

(1) Engaged in the business of buying and dealing in regulated scrap metal;

(2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or

(3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.

#### **§ 5-303 SAME; REGISTRATION; APPLICATION; FEES; PENALTY.**

(a) Application for registration for a scrap metal dealer shall be verified and made upon a form furnished by the city and approved by the Attorney General and shall contain:

(1) The name and residence of the applicant;

(2) The length of time that the applicant has resided within the state and a list of all residences outside the state during the previous ten years;

(3) The particular place of business for which a registration is desired; and

(4) The name of the owner of the premises upon which the place of business is located.

(A) The applicant shall disclose any prior convictions within ten years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-5801, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-5802, criminal deprivation of property, as defined in K.S.A. 21-5803, prior to its repeal or any other crime involving possession of stolen property.

(B) In addition to the information required in division (a)(4)(A) above, the applicant shall also disclose any prior convictions within ten years immediately preceding the date of making the application for registration for any federal or local crime or offense similar to those stated in division (a)(4)(A) above, to include, but not be limited to, §§ 6.1, theft, 6.3, theft or lost of mislaid property, and 6.5, criminal deprivation of property, and amendments thereto, of the Uniform Public Offense Code for Kansas Cities.

(b) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of \$200.

(c) The City Clerk shall provide the Chief of Police written notice of the filing of registration by a scrap metal dealer within ten days of registration or renewal.

**§ 5-304 SAME; ISSUANCE OF REGISTRATION; RENEWAL; RENEWAL FEES.**

(a) (1) Upon receipt of the application for registration, the application fee and verifying the information contained in the registration application that the applicant is qualified, the City Clerk shall forward the application to the governing body, or its designee.

(2) The governing body, or its designee, shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in the city and qualified to file such registration, to purchase regulated scrap metals.

(3) Registrations issued hereunder, unless revoked as herein provided, shall be effective for a period of ten years.

(b) (1) If an original registration is accepted, the governing body, or its designee, shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law.

(2) The registration fee for such renewal, which shall be in addition to the fee provided by § 5-303, shall be \$25.

(c) No registration or renewal issued hereunder shall be transferable.

**§ 5-305 SAME; PENALTY.**

Violation of § 5-308 is a Class A violation and punishable by a fine of not more than \$2,500 or imprisonment in jail for not more than 12 months or by both such fine and imprisonment.

**§ 5-306 SAME; EXCEPTION.**

This article shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

**§ 5-307 SAME; ISSUANCE; DISQUALIFICATION.**

(a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body, or its designee, shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this article;

(2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of K.S.A. Chapter 21, Articles 58 through 65;

(3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of § 1, and amendments thereto, K.S.A. 50-6,109 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times;

(4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration;

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years;

(6) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration;

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason;

(8) Any person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration; and

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this article.

**§ 5-308 SAME; SUSPENSION OR REVOCATION OF REGISTRATION.**

(a) The governing body, upon five days' notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or any similar ordinance or code provisions adopted by the city;

(2) The employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city ordinance, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) Permitting any criminal activity under the Kansas Criminal Code, or similar ordinance adopted by the city in or upon the registrant's place of business.

(b) The governing body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The governing body, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) The registrant has become ineligible to obtain a registration under this article;

(3) The nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) (A) Within 20 days after the order of the governing body denying, revoking or suspending any registration, the registrant may appeal to the District Court and the District Court shall proceed to hear such appeal as though the Court had original jurisdiction of the matter.

(B) Upon request by the registrant, the District Court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this article.

(d) Any registration suspension brought under divisions (a), (b) or (c) above shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.