

## **CHAPTER V: BUSINESS REGULATIONS**

### Article

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## **ARTICLE 1: GENERAL REGULATIONS AND LICENSES**

### Section

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#### **' 5-101 LICENSE 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 license fee prescribed and procuring such a license from the City Clerk whenever the procuring of the license is required by the city.

#### **' 5-102 APPLICATION FOR LICENSE.**

Every person, firm or corporation desiring to do business in the city shall apply to the City Clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the City Clerk shall issue to the applicant a license that shall be signed by the City Clerk. It shall be the duty of the City Clerk to pay over the amount so collected on each license issued to the City Treasurer of the city.

#### **' 5-103 NOT ASSIGNABLE OR TRANSFERABLE.**

No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided.

**‘ 5-104 LICENSE PERIOD; DURATION.**

Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on June 30 or December 31, next following the date of their issuance.

**‘ 5-105 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)

**‘ 5-106 LICENSE FEES.**

Unless otherwise provided, the annual license fee for each occupation, business or profession shall be as shown in the schedule in Ch. I, Art. 8 of this code of ordinances.

**‘ 5-107 SAME; WHEN PAYABLE; TIME PERIOD.**

(a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession in which license fees are required.

(b) No license shall be issued until the fee is paid.

(c) Licenses shall be renewed on or before the expiration date of the current licenses.

(d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.

(e) The license for a day shall expire at midnight.

**‘ 5-108 PAYMENT OF FEES; RECEIPT.**

The City Clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business.

**‘ 5-109 CONTENTS OF LICENSE.**

Unless otherwise provided, all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named.

**' 5-110 RECORD.**

The City Clerk shall keep a record of the name of each person licensed, his or her address, the date of the license, the purpose in which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the City Clerk shall notify the Chief of Police of such expiration, unless the same shall have been renewed.

**' 5-111 DISPLAY OF LICENSE.**

All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them, and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city.



## ARTICLE 2: SOLICITORS, CANVASSERS, PEDDLERS

### Section

- 5-201 Definitions
- 5-202 License required
- 5-203 Same; exceptions
- 5-204 Same; application required
- 5-205 Issuance; county residents
- 5-206 Same; investigation and issuance; Non-County Resident
- 5-207 Same; investigation fee
- 5-208 License fee; time limits; exemptions; County Resident
- 5-209 Renewal
- 5-210 Denial, revocation or suspension of license; notice
- 5-211 Appeal to governing body
- 5-212 Regulations
- 5-213 Use of streets and sidewalks
- 5-214 Disturbing the peace

### 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. (1997 Code, ' 5-101) (Ord. 626, adopted 9-3-1997)

**' 5-202 LICENSE REQUIRED.**

(a) It shall be unlawful for any person to engage in any of the activities defined in the preceding section 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 ' 5-208(d). (1997 Code, ' 5-102)

**' 5-203 SAME; EXCEPTIONS.**

A license is not required for:

(a) Any person who has resided in the city for a period of six months or more;

(b) Any person commonly called a drummer who may transact business with any business establishment or firm regarding its stock in trade or equipment used. (1997 Code, ' 5-103)



**' 5-204 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.

(1997 Code, ' 5-104)

**' 5-205 ISSUANCE; COUNTY RESIDENTS.**

Except as provided in ' 5-210, if the applicant is a current resident of the county, upon receipt of an application for a license and payment of the license fee of \$5 per day, 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.

(1997 Code, ' 5-105) (Ord. 847, FEES adopted 1-18-2017)

**' 5-206 SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.**

(a) 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 ' ' 5-206 and 5-207.

(b) Upon receipt of the above application and \$10 investigation fee 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.

(c) Not approved: 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.

(d) Approved: 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 \$10 per day license fee and the \$10 investigation fee as 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 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.

(1997 Code, ' 5-106) (Ord. 847, FEES adopted 1-18-2017)

**' 5-207 SAME; INVESTIGATION FEE.**

At the time of filing the application, a fee of \$10 shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the foregoing application.

(1997 Code, ' 5-107) (Ord. 847, FEES adopted 1-18-2017)

**' 5-208 LICENSE FEE; TIME LIMITS; EXEMPTIONS; COUNTY RESIDENT.**

(a) Except as provided in division (c) below, the fee for the license required pursuant to ' 5-202 shall be in the amount of \$5 per each day, or portion thereof, per person, that the licensee shall operate within the city limits.

(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 an amount as set by the governing body 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) (1997 Code, ' 5-108) (Ord. 847, FEES adopted 1-18-2017)

**' 5-209 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 and the requirement for a daily fee shall remain in effect. 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.

(1997 Code, ' 5-109)

**' 5-210 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:

**Burlington - Business Regulations**

- (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.

(1997 Code, ' 5-110)

**' 5-211 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.

(1997 Code, ' 5-111)

**' 5-212 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.

(1997 Code, ' 5-112)

**' 5-213 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.

(1997 Code, ' 5-113)

**' 5-214 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.

(1997 Code, ' 5-114)



### ARTICLE 3: TAXICABS

#### Section

- 5-301 License required
- 5-302 Same; application and issuance
- 5-303 License fee
- 5-304 Insurance required
- 5-305 License; term
- 5-306 Same; renewal or transfer
- 5-307 Same; revocation

#### ' 5-301 LICENSE REQUIRED.

It shall be unlawful for any person to maintain or operate a taxicab business in the city therein or engage in the business of transporting persons from one place to another in the city for which a charge is made without a valid license from the city for such purpose.

(1997 Code, ' 5-201)

#### ' 5-302 SAME; APPLICATION AND ISSUANCE.

(a) A person required by the provisions of this section to obtain a license shall file a written application with the City Clerk. The application shall contain the following information:

- (1) The name of the owner;
- (2) The name of the company under which it is proposed to do business;
- (3) The names of the operator or chauffeurs of the taxicabs;
- (4) The number of taxicabs and kinds of vehicles; and
- (5) The proposed fares.

(b) The application shall be accompanied by a public liability and property damage policy of insurance that complies with ' 5-304 or a statement of an insurance agent that application has been made for such a policy to be issued upon the granting of a license to such applicant.

(c) The application shall be considered by the governing body and a license shall be issued for the operation of the taxicab business upon the approval of the policy of insurance by the city attorney and the finding of the governing body that the vehicles proposed to be operated as taxicabs conform in all respects to the state law governing brakes, lights, mufflers and other equipment and that the operators thereof are licensed as chauffeurs by the state and upon the payment of the required license fee.

(d) The license shall state the number of vehicles to be operated by the licensee.  
(1997 Code, ' 5-202)

**' 5-303 LICENSE FEE.**

Before the license required by this section is issued, the owner or manager of the taxicab business shall pay to the city a license fee in the amount of \$1 per annum for each such taxicab operated upon and over the streets of the city.  
(1997 Code, ' 5-203)

**' 5-304 INSURANCE REQUIRED.**

The policy of insurance required by ' 5-302 shall provide insurance coverage as currently required by the state for each and every taxicab or other vehicle carrying passengers for hire, and owned, leased or operated by the licensee for bodily injury or death - and for harm or destruction to property of others in any one accident. The policy shall provide such coverage whether the taxicab is being driven by the owner, his or her agent, employee, lessee or licensee. The policy shall be issued by a company authorized to do business in the state and shall in all respects conform to the insurance laws of the State of Kansas.

**' 5-305 LICENSE; TERM.**

A license issued under this section shall expire at the end of the calendar year for which it was issued.  
(1997 Code, ' 5-205)

**' 5-306 SAME; RENEWAL OR TRANSFER.**

Licenses issued under this section may be renewed in the same manner as an original license. Any licensee may sell or transfer his or her business to another person upon the approval of the governing body and the making of an application and the granting of a license to the transferee upon the payment of a fee of \$1. The transferee shall be entitled to operate the business without the payment of the annual license during the remainder of the period for which the original license was issued.  
(1997 Code, ' 5-206)



**' 5-307 SAME; REVOCATION.**

The governing body may upon complaint by any city officer, and after notice to the owner and a hearing thereon, revoke any taxicab license when the governing body is satisfied that:

(a) The licensee has failed to maintain his or her taxicabs in a safe and proper mechanical condition;

(b) The operators of the vehicles are not safe and proper operators or are not licensed by the state;

(c) The required policy of insurance has been canceled or has expired or is no longer in effect; or

(d) The vehicle operators have repeatedly violated the traffic ordinances of the city.

(1997 Code, ' 5-207)



## ARTICLE 4: POOL HALLS AND BILLIARD PARLORS

### Section

- 5-401 License required
- 5-402 Application
- 5-403 Issuance; fee; term
- 5-404 Revocation
- 5-405 Inspections
- 5-406 Operating hours
- 5-407 Disorderly persons
- 5-408 Minors

#### **' 5-401 LICENSE REQUIRED.**

It shall be unlawful for any person to run, operate or maintain any billiard or pool hall or place where billiard, pool or like games may be played for gain or hire in the city, without a valid license for such place of business.

(1997 Code, ' 5-301)

#### **' 5-402 APPLICATION.**

A person required to obtain a license for a pool or billiard hall shall file a written application with the governing body giving the following information:

- (a) His or her name;
- (b) The location of the pool or billiard hall;
- (c) A general description of the room in which the pool or billiard hall will be operated; and
- (d) The number of pool or billiard tables to be placed in the premises.

(1997 Code, ' 5-302)

#### **' 5-403 ISSUANCE; FEE; TERM.**

(a) The governing body shall order the issuance by the City Clerk of a license for a pool or billiard hall if it finds that the premises where the establishment is to be located is a fit and suitable place for a

billiard or pool hall.

(b) When directed by the governing body and on payment of a license fee of \$7.50 per year for each table, the City Clerk shall issue a license for a billiard or pool room. The license shall expire on the last day of December next following its issuance.

(1997 Code, ' 5-303) (Ord. 847, FEES adopted 1-18-2017)

**' 5-404 REVOCATION.**

The governing body may by resolution revoke a license issued pursuant to the provisions of this section upon a finding that the license has violated any of the provisions of this article. Upon revocation all license fees paid shall be wholly forfeited to the city. The person to whom the license was granted shall immediately cease to do business upon receiving notice of the revocation.

(1997 Code, ' 5-304)

**' 5-405 INSPECTIONS.**

Each billiard or pool hall shall be subject to the inspection by the police officers and other officers of the city.

(1997 Code, ' 5-305)

**' 5-406 OPERATING HOURS.**

All billiard or pool hall proprietors procuring a license and operating under this article shall not open for and transact business in or operate the hall prior to 6:00 a.m., and shall close the same not later than 12:00 midnight of each day.

(1997 Code, ' 5-306)

**' 5-407 DISORDERLY PERSONS.**

It shall be unlawful for the owner of a billiard or pool room in the city, or his or her agent, manager or servant, to permit an intoxicated person or a person using loud or boisterous language to be in the pool or billiard hall.

(1997 Code, ' 5-307)

**' 5-408 MINORS.**

It shall be unlawful for the owner or manager of any billiard or pool hall, or his or her employee, agent or servant, to permit any person enrolled in the public schools of the city to frequent or loiter in any such place during school hours, or in any case to permit any person under 18 years of age to frequent or loiter in such place at any time unless such person is accompanied by his or her parent or guardian or unless such parent or guardian has given his or her consent in writing for his or her child or ward to be in or frequent any such place. The owner or manager of any billiard or pool hall shall file a list of all such persons with the City Clerk for inspection of the Chief of Police upon request.

(1997 Code, ' 5-308)

## ARTICLE 5: MISCELLANEOUS BUSINESSES AND SALES

### Section

- 5-501 Generally
- 5-502 Amusement stands or exhibitions
- 5-503 Bankrupt or fire sales
- 5-504 Coin-operated machines
- 5-505 Transient merchants

#### ' 5-501 GENERALLY.

It shall be unlawful for any person to carry on or conduct in the city any of the businesses, occupations or professions named in this article without first having paid the license fee specified and without having secured a license.

(1997 Code, ' 5-401)

#### ' 5-502 AMUSEMENT STANDS OR EXHIBITIONS.

Each amusement stand, rack or exhibition for which a license is not otherwise provided shall pay a license fee of \$5 per day.

(1997 Code, ' 5-402) (Ord. 847, FEES adopted 1-18-2017)

#### ' 5-503 BANKRUPT OR FIRE SALES.

(a) Every person selling or offering for sale, trade or exchange, goods, wares or merchandise, advertised or designated as Sheriff=s, assignee=s, creditors=, fire sales or bankrupt or damage stock sales, not otherwise taxed herein, shall pay a license tax per month or fraction thereof \$50.

(b) This section shall not apply to goods, wares or merchandise which are actually under the control of the Sheriff, or trustee or assignee in bankruptcy or to goods which have been damaged within this city, and which are being disposed of in good faith to close out the same.

(1997 Code, ' 5-403) (Ord. 847, FEES adopted 1-18-2017)

#### ' 5-504 COIN-OPERATED MACHINES.

The license fee to be paid by the owner of a coin-operated machine shall be \$5.

(1997 Code, ' 5-404) (Ord. 847, FEES adopted 1-18-2017)

**' 5-505 TRANSIENT MERCHANTS.**

(a) Each transient merchant engaged in retail business in the city shall pay a license fee of \$20 per day.

(b) The term *TRANSIENT MERCHANT* shall include a person who advertises for sale a stock of goods brought into the city and to be kept there for a short time or limited period, or who advertises the stock of goods for sale for the purpose of closing out any salvaged stock of goods for sale for the purpose of closing out any salvaged wreckage, fire or bankrupt sale or a person who makes the practice of moving a stock of goods from municipality to municipality for the purpose of selling for a short time or limited period from that stock or stocks of goods at each municipality.

(1997 Code, ' 5-405) (Ord. 847, FEES adopted 1-18-2017)

## ARTICLE 6: SCRAP METAL DEALERS

### Section

- 5-601 Scrap metal dealers; registration required
- 5-602 Same; definitions
- 5-603 Same; registration; application; fees; penalty
- 5-604 Same; issuance of registration; renewal; renewal fees
- 5-605 Same; penalty
- 5-606 Same; exception
- 5-607 Same; issuance; disqualification
- 5-608 Same; suspension or revocation of registration

#### ' 5-601 SCRAP METAL DEALERS; REGISTRATION REQUIRED.

On and after the effective date of this article, 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.

(Ord. 816, adopted 12-5-2012)

#### ' 5-602 SAME; DEFINITIONS.

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

***BALES OF REGULATED METAL.*** Regulated scrap metal properly processed 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.

***FERROUS METAL.*** A metal that contains iron or steel.

***JUNK VEHICLE.*** A vehicle not requiring a title as provided in K.S.A. Ch. 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.

***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.

**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.

**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.

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

**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.

(Ord. 816, adopted 12-5-2012)

**5-603 SAME; REGISTRATION; APPLICATION; FEES; PENALTY.**

(a) (1) 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:

- (A) The name and residence of the applicant;
- (B) 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;
- (C) The particular place of business for which a registration is desired;



(D) The name of the owner of the premises upon which the place of business is located; and

(E) 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. 21-3701, prior to its repeal, or K.S.A. Ch. 136, ' 87, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. Ch. 136, ' 88, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. Ch. 136, ' 89, or any other crime involving possession of stolen property.

(2) In addition to the information required in division (a)(1)(E) 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)(1)(E) above, to include, but not be limited to, ' ' 6.1, theft, 6.3, theft of lost or 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 (not less than \$100 nor more than \$400).

(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.  
(Ord. 816, adopted 12-5-2012; Ord. 847, FEES adopted 1-18-2017)

**' 5-604 SAME; ISSUANCE OF REGISTRATION; RENEWAL; RENEWAL FEES.**

(a) 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. 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.

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

(c) 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. The registration fee for such renewal, which shall be in addition to the fee provided by ' 5-603, shall be \$50 (not less than \$25 nor more than \$50).

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

(Ord. 816, adopted 12-5-2012; Ord. 847, FEES adopted 1-18-2017)

**' 5-605 SAME; PENALTY.**

Violation of ' 5-601 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.

(Ord. 816, adopted 12-5-2012)

**' 5-606 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.

(Ord. 816, adopted 12-5-2012)

**' 5-607 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. Ch. 21, Art. 37, prior to their repeal, or K.S.A. Ch. 136, ' ' 87 through 125 and ' 223(a)(6), perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. Ch. 136, ' 128, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. Ch. 136, ' 129, interference with judicial process, K.S.A. Ch. 136, ' 130, or any crime involving moral turpitude;

(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 ' 5-601, 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) A 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.

(Ord. 816, adopted 12-5-2012)

**5-608 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.

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(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) 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. 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 action brought under division (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.

(Ord. 816, adopted 12-5-2012)