

ORDINANCE NO. 2018-3139

AN ORDINANCE AMENDING LICENSING REQUIREMENTS FOR PUBLIC VENDORS; REPEALING ALL OF ARTICLE 5 OF CHAPTER XI; AND AMENDING THE CONCORDIA CODE, BY ADDING A NEW ARTICLE 5 OF CHAPTER XI.

BE IT ORDAINED by the governing body of the City of Concordia, Kansas:

SECTION 1. Article 5 of Chapter XI of the Code of Ordinances of the City of Concordia is hereby repealed as of the effective date set forth below.

SECTION 2. The Code of Ordinances of the City of Concordia is hereby amended, by adding a new Article 5 of Chapter XI, which shall read as follows:

11-501. Definitions.

(a) Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Central business district” means that area in the city bounded by Seventh Street on the south, Fifth Street on the north, Cedar Street on the west, and Lincoln Street on the east.

“Motor vehicle” means any vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, which is required to be licensed and registered by the state department of motor vehicles.

“Stand” means any table, showcase, bench or rack, or any pushcart, wagon or any other wheeled vehicle or device which may be moved without the assistance of a motor or engine and which is not required to be licensed and registered by the department of motor vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor.

“Vendor” means any person engaged in the selling, or offering for sale, of food, beverages or merchandise on the public streets, alleys or sidewalks in a commercially zoned area, from a stand or motor vehicle or from his/her person.

11-502. Finding and purpose.

It is found and declared that:

- (1) The primary purpose of the public streets, alleys and sidewalks is for use by vehicular and pedestrian traffic.
- (2) Vending on the public streets, alleys and sidewalks (public vending) promotes the public interest by contributing to an active and attractive pedestrian environment.
- (3) Reasonable regulation of public vending, including vending from motor vehicles, is necessary to protect the public health, safety and welfare.
- (4) The regulations contained in this article do not prohibit pure speech by religious organizations, but merely regulate the activities of an organization which are commercial in nature.

11-503. Penalty for violation of article.

(a) Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of \$250.00.

11-504. Vending prohibited, except in certain locations.

Public vending is prohibited, with the following exceptions:

- (1) Public vending on the public sidewalks, alleys and streets is permitted in the central business district.
- (2) Public vending from motor vehicles is permitted throughout the city and, on a limited basis, in the central business district, subject to the restrictions contained in this article; provided, however, that nothing in this section shall be construed as repealing or superseding any other ordinance or regulation of the city relating to control of vehicular or pedestrian traffic and parking, zoning or other regulation of sales from motor vehicles.

11-505. Prohibited conduct.

(a) No vendor shall:

- (1) Vend on any street or sidewalk where vending is otherwise prohibited by law;
- (2) Vend between 9:00 p.m. and 9:00 a.m. of the following day;
- (3) Leave any stand or motor vehicle unattended;
- (4) Store, park or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations without displaying in a prominent place the city-issued license for vending;
- (5) Sell food or beverages for immediate consumption, unless such vendor has available for public use his/her own or a public litter receptacle which is available for the customers' use;
- (6) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales.

(b) No vendor selling from a stand on the sidewalk shall:

- (1) Situate the stand so that two-way pedestrian traffic is unreasonably inconvenienced, hindered or blocked;
- (2) Situate the stand so that ingress and egress to or from any building is unreasonably inconvenienced, hindered or blocked;
- (3) Vend within 100 feet of any driveway entrance to a police or fire station, or unreasonably hinder ingress and egress to or from any other driveway;
- (4) Unreasonably restrict access to any pedestrian crosswalk.

(c) No vendor vending from a motor vehicle or otherwise shall:

- (1) Conduct a business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase pedestrian or vehicle traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles;
- (2) Stop, stand or park a vehicle upon any street, or permit it to remain there except on the roadway at the curb, for the purpose of vending therefrom;
- (3) Stop, stand or park a vehicle upon any street for the purpose of selling, or sell on any street under any circumstances during the hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute, ordinance or other traffic regulation;
- (4) Remain in any one place for a period longer than necessary to make a sale, after having been approached or stopped for that purpose;

- (5) Stop, stand or park a vehicle within 25 feet of any intersection, except that vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale, as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic;
- (6) Conduct a business or stop, stand or park a vehicle in the central business district, except at such times as any street in the central business district is temporarily closed by the city manager.

11-506. License required; exceptions.

- (a) It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise on any public street, alley or sidewalk within the city, whether from a motor vehicle or stand, without first obtaining a license therefore, designated a "public vendor's license."
- (b) A public vendor's license shall not be required for:
 - (1) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
 - (2) Sales or displays at trade shows, expositions or conventions;
 - (3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;
 - (4) Sales or displays at fairs, conventions or shows operated primarily for purposes of amusement, entertainment, recreation or education;
 - (5) Sales or displays at sales, fairs, auctions or bazaars operated by church, religious or charitable organizations;
 - (6) Garage sales held on premises devoted to residential use;
 - (7) Sales or displays at sales or shows of crafts or items made by hand and sold, offered for sale or displayed by the individual making such crafts or handmade items;
 - (8) Sales of agricultural or farm, garden or agricultural products, sold or offered for sale by the individual raising or producing such products and such person's agents or employees, or sales of either agricultural or nonagricultural items by members of a farmer's market organization whose membership is composed primarily of sellers of agricultural, farm, garden, or agricultural products;
 - (9) Sales to the owner or legal occupant of residential premises, at such premises pursuant to an invitation issued by such owner or legal occupant;
 - (10) Sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools or educational institution, or by nonprofit fraternal, social or youth organizations;
 - (11) Sales of paraphernalia used in the celebration of any nationally recognized holiday;
 - (12) Sales or displays at flea markets or at sales, exchanges or shows of antique or other personal property having an enhanced value by reason of its age or unique characteristics;
 - (13) Sales or displays at fairs or expositions sponsored by the state, a county or another governmental entity or a convention or tourism committee created pursuant to either K.S.A. 12-1695 or 12-16,101, and amendments thereto;
 - (14) Sales or displays at sales, exchanges or shows of collectibles or hobby or investment items of personal property, including but not limited to pets, gems and minerals, stamps, coins, photographs and photographic equipment, guns and belt buckles;
 - (15) Events sponsored by nonprofit organizations; or

- (16) Any person who has a permanent business location in this state for not less than six months in each year but who may carry on a transient business at locations in this state other than at the person's permanent business location.
 - (17) Any person who owns commercial or business real estate and operates as a vendor on said property.
- (c) A transient merchant not otherwise exempted from the provisions of this act shall not be relieved or exempted from the provisions of this act by reason of temporary association with any local dealer, auctioneer, trader, contractor or merchant or by conducting temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

11-507. Same; application.

- (a) Application for a public vendor's license shall be made in writing to the city clerk. The application shall contain the following:
- (1) The name of the applicant, if an individual; the names of partners, if a copartnership; or the names of the principal officers, if a corporation, church, club or charitable institution;
 - (2) The location and dimensions of the places where such food, beverages and merchandise are to be displayed and sold. Vendors from motor vehicles shall describe the general area in which they propose to vend.
 - (3) If the vendors propose to vend at a location on private property, the written permission of the landowner.
 - (4) The name and address of the owner, if other than the applicant, of the vending business, stand or motor vehicle to be used in the operation of the vending business;
 - (5) A general description of the type of food, beverage or merchandise to be sold;
 - (6) Proof that the vendor has a valid state retailers' tax registration certificate required by K.S.A. 79-3608 or successor statute.

11-508. Same; issuance; tax; term.

- (a) The city clerk shall promptly notify the applicant of the decision on the issuance or denial of the license.
- (b) If two or more applications for the same location are received, the earliest filed application, if approved, shall be awarded the location; provided, however, that irrespective of the time of filing an application, priority in the granting of such licenses shall be given to the land or business owner immediately adjoining the location for which the license is sought.
- (c) If the issuance of the license is approved, the city clerk shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application.
- (d) A license issued pursuant to this section is valid for a period not to exceed four days. License tax shall be \$25.00 per day up to four (4) hours of operation, and \$50.00 per day for over four (4) hours of operation. No applicant shall be issued more than four licenses per calendar year.

11-509. Same; renewal.

- (a) All licenses are valid for the entire licensing period, unless revoked or suspended prior to expiration.

11-510. Same; display.

(a) All public vendors' licenses shall be conspicuously displayed at all times during the operation of the vending business.

11-511. Same; denial, suspension and revocation.

(a) Any license may be denied, suspended or revoked for any of the following causes:

- (1) Conduct of the licensed business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare or morals;
- (2) Conduct which is contrary to the provisions of this article.
- (3) Sales which are in direct conflict with fundraising efforts by local entities.


SECTION 3. This ordinance shall be summarized for publication as follows:

On July 18, 2018, the City of Concordia adopted Ordinance No. 2018-3139, amending licensing requirements for public vendors. A reproduction of this ordinance will be available for not less than one week following the publication of this summary of the ordinance at the website address of the City of Concordia, <http://www.concordiaks.org>. This summary is certified by the city attorney to be legally accurate and sufficient.

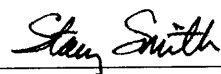
SECTION 4. This ordinance shall be in full force and effect from and after its passage and publication of the above ordinance summary in the official city newspaper. The provisions hereof are severable, and in the event of invalidity, for any reason, of any portion of this ordinance, the remaining provisions of the ordinance shall remain in full force and effect, with the invalid provisions deemed excised.

PASSED by the governing body and signed by the mayor this 18th day of July, 2018.

(Seal)


Sarah J. Saceo
Mayor

ATTEST:



Stacey Smith
City Clerk

ORDINANCE CERTIFICATE

I hereby certify that the foregoing is an original ordinance; that said ordinance was passed on the 18th day of July, 2018; that the record of the final vote on its passage is found on page ____ of the minutes journal; that the ordinance summary was published in the Concordia Blade-Empire on the 20th day of July, 2018.


_____, City Clerk