

ORDINANCE NO. 2018-3142

AN ORDINANCE AMENDING THE DEFINITION, REGULATION, AND LICENSING OF SOLICITORS AND CANVASSERS; REPEALING CONCORDIA CODE SECTION 11-223 AND ALL OF ARTICLE 6 OF CHAPTER XI; AND AMENDING THE CONCORDIA CODE, BY ADDING A NEW ARTICLE 6 OF CHAPTER XI.

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

SECTION 1. Section 11-223 and Article 6 of Chapter XI of the Code of Ordinances of the City of Concordia is hereby repealed as of the effective date set forth below.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 6 of Chapter XI, which shall read as follows:

11-601. 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:

“Solicitor and canvasser” mean an individual, whether resident of the city or not, traveling either by foot, wagon, automobile, motor truck or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares or merchandise or 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 such individual is collecting advance payments on such sale or not. Such definition shall include any person who, for himself/herself or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel room, lodging house, apartment, shop or other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. This definition, however, shall not include those engaged in the collection and dissemination of news, nor shall it include commercial travelers, commonly called “drummers,” representing wholesalers and regularly calling upon retailers.

11-602. License; required.

(a) It shall be unlawful for any person to pursue, carry on or conduct the trade, occupation or business of a solicitor or canvasser in the city, without a license issued pursuant to this article and article 2 of this chapter. 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.

11-603. Application generally.

(a) An applicant for a solicitor’s or canvasser’s license shall file, in duplicate with the city clerk on a form to be furnished by the city clerk, a signed and sworn application in writing, which shall truthfully give the following information:

- (1) The name and description of the applicant.
- (2) The permanent home address and full local address of the applicant.
- (3) 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 such business.
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- (5) The length of time for which the license is desired.

- (6) The place where services are to be performed, or the place where the goods 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.
- (7) A photograph of the applicant, taken within 90 days immediately prior to the date of the filing of the application, which ~~photograph~~ shall be ~~two inches by two inches~~ approximate wallet size showing the head and shoulders of the applicant in a clear and distinguishing manner. The photo may be brought in at the time of the application, or will be taken by city hall staff. In lieu of such photograph, the fingerprints of the applicant may be taken by the chief of police and filed with the application.
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, giving the nature of the offense and the punishment or penalty assessed therefor, and the city and state where the conviction occurred.
- (9) Kansas Sales Tax number or proof of exemption from the collection of Kansas sales tax.

11-604. False statements in application.

- (a) Any person who willfully swears falsely to any statement in the application for a solicitor's or canvasser's license shall be guilty of a misdemeanor.

11-605. Investigation of application and fee therefor.

- (a) At the time of filing an application for a license under this article, the applicant shall pay a fee of \$50.00 to the city clerk to cover the cost of investigating the facts stated therein. Upon receipt of such application, the original shall be referred to the city manager, who shall cause an investigation of the facts stated in the application to be made within not to exceed five days.

11-606. Disapproval of application.

- (a) If, as a result of the investigation provided for in section 11-605, the applicant's character or business responsibility is found to be unsatisfactory, or the facts stated therein to be untrue, the city manager shall endorse on such application disapproval and the reasons for the same, and return the application to the city clerk, who shall notify the applicant that such application is disapproved and that no license will be issued.

11-607. Approval of application; issuance.

- (a) If, as a result of the investigation provided for in section 11-605, the character and business responsibility of the applicant for a license under this article are found to be satisfactory, the city manager shall endorse on the application the approval thereof and return it to the city clerk, who shall, immediately upon payment of the fee prescribed by section 11-612, issue to the applicant the license to pursue, carry on or conduct the trade, occupation or business described in the application.

11-608. Form and contents.

- (a) A license issued under this article shall be in the form required by Article 2 of this chapter and shall show, in addition thereto, the photograph or fingerprints of the licensee and the kind of goods to be sold or services to be rendered.

11-609. Renewal.

- (a) A license issued under this article may be renewed for subsequent days without further compliance with sections 11-603, 11-605, 11-606 or 11-607 if renewed during the same calendar year as the original license application was made. Renewals will not be approved for licenses which exceed ten (10) days total in one calendar year. Renewals must be made in writing to the city clerk and must accompany payment per the fee schedule in section

11-616. The city clerk will notify the police department of the renewal. A new application must be submitted and approved each calendar year.

11-610. Exhibition.

(a) Solicitors or canvassers licensed under this article shall exhibit their licenses at the request of any citizen or police officer.

11-611. Suspension or revocation.

(a) For good cause, the city manager may suspend a solicitor's or canvasser's license until the next meeting of the governing body, and the governing body, upon a hearing of the matter, with notice to the licensee and affording the licensee an opportunity to be heard, may permanently revoke or cancel such license or terminate the suspension and order a return of the license. If such license is returned, the licensee shall be entitled to a refund of a proportionate amount of the license fee for a period of the license suspension.

(b) The term "good cause" as used in subsection (a) of this section, shall mean and include any reason for which a license could be refused in the case of an original application, and any act of the licensee contrary to the health, morals, safety or welfare of the city's inhabitants, or any act in connection with the licensed trade, occupation or business which is unlawful, irregular or fraudulent in nature.

11-612. Exceptions.

(a) A solicitor or canvasser license shall not be required for:

- (1) Delivery of newspapers, fuel, tools, dairy products, or bakery goods to regular customers on established routes;
- (2) Sale of goods at wholesale to dealers in such goods;
- (3) Those who have an established place of business where goods or services being sold are offered for sale on a regular basis, and where the buyer has initiated contact with and specifically requested a home visit by such person;
- (4) Those who have had, or one who represents an organization which has had, a prior transaction similar to that being solicited with the solicitee;
- (5) Officers or employees of the city, county, state or federal government, or any subdivision thereof, when on official business;
- (6) Conducting solicitations for the sole benefit or under the auspices of the organization, i.e. Girl or Boy Scouts, Chamber of Commerce, service club or charitable organization;
- (7) Children under the age of 16 who are residents of the city.

11-613. Operation in congested areas.

(a) It shall be unlawful to use a stationary location in or upon any public street, or operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, 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.

11-614. Operation on private property.

(a) It shall be unlawful to operate on private property without having first secured the permission of the owner or occupant of such property.

11-615. Prohibited hours.

(a) No person shall engage in either peddling or soliciting between the hours of one-half

hour before sunset and 8:00 p.m., whichever is earlier, to 9:00 a.m the following morning, or at any time on Sundays, except by specific appointment with an invitation from the prospective customer.

11-616. Aggressive peddling or soliciting.

(a) It shall be unlawful for any person to engage in peddling or soliciting in an aggressive manner. As used in this section, "aggressive manner" means either approaching a person present at the residence or continuing the peddling or soliciting activity after the person has made a negative response, whether before or after being invited into the residence, in a manner that (1) is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession or in or about the residence, or (2) is intended to or is likely to intimidate the person into responding affirmatively to the peddling or soliciting activity. Aggressive peddling or soliciting is a class B misdemeanor.

11-617. Fees.

(a) The license taxes for pursuing, carrying on or conducting the trade, occupation or business of a solicitor or canvasser shall be as follows:

Per day\$ 200.00
Per calendar year\$2,000.00 for a maximum of ten (10) days
Investigation fee, per permit\$50.00

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

On August 1, 2018, the City of Concordia adopted Ordinance No. 2018-3142, amending the definition, regulation, and licensing of solicitors and canvassers. 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 1st day of August, 2018.

(Seal)

Sam J. Sacco
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 1st day of August, 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 3rd day of August, 2018.

_____, City Clerk