

CHAPTER V. BUSINESS LICENSES AND REGULATIONS

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS, TRANSIENT MERCHANTS

SECTIONS

5-201	STATEMENT OF PURPOSE
5-202	DEFINITIONS
5-203	SOLICITATION PERMITS REQUIRED
5-204	INFORMATION REQUIRED ON APPLICATION FOR SOLICITATION PERMIT
5-205	STANDARDS FOR ISSUANCE
5-206	APPLICATION AND PERMIT AVAILABLE FOR PUBLIC INSPECTION
5-207	FEES
5-208	CONTENTS OF PERMIT
5-209	TERM OF PERMIT
5-210	PERMITS NONTRANSFERABLE
5-211	SUSPENSION OR REVOCATION OF PERMITS
5-212	UNIFORMITY OF ADMINISTRATION OF ARTICLE
5-213	PROHIBITED ACTS
5-214	PENALTIES

5-201. STATEMENT OF PURPOSE. It is the purpose of this Article to protect the general public against:

- (a) Crimes, frauds and misrepresentation committed by persons posing as solicitors;
- (b) The continuing danger of fraud, robbery, and other crimes to the residents of the City; and
- (c) Undue annoyances caused by solicitors.

(Ord. 1002C;10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-202. DEFINITIONS.

- (a) "**Canvass**" as used in this Article means opinion sampling, poll-taking, or other similar activity, either by foot, wagon, automobile, motor truck, or any other type of conveyance, from house to house, door to door, street to street, or from place to place.
- (b) "**Canvasser**" as used in this Article means any person who engages in canvassing in person for himself or any other person.

- (c) "**Charitable**" as used in this Article means any activity represented as carried on from unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain, and may include, without limitation, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, scientific, historical, athletic, medical, or religious activities, either actual or implied.
- (d) "**City**" as used in this Article means the City of Leawood, Kansas.
- (e) "**Peddle**" as used in this article means to operate from a temporary stand, display or similar facility, or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares, or merchandise for the purpose of offering and exposing the same for sale.
- (f) "**Peddler**" as used in this Article means a person who peddles for himself or for any other person.
- (g) "**Person**" as used in this Article means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, director, member, partner, officer, receiver, assignee, employee, agent or other similar representative thereof.
- (h) "**Solicit**" and "*solicitation*" as used in this Article mean and include any one or more of the following:
 - (1) Selling or taking orders for or offering to sell or take orders for goods, services, merchandise, wares, or other items of value for commercial purposes, regardless of whether the goods or services are to be delivered or performed in the future; or
 - (2) Requesting donations or contribution of funds, property, or anything of value, or the pledge of any type of future donation, or selling or offering for sale any type of property, including but not limited to goods, tickets, books, and pamphlets, for political, charitable, religious, or other non-commercial purposes; or
 - (3) Canvassing or peddling as defined in this section; or
 - (4) Throwing, depositing or distributing any commercial handbill in or upon any premises within the City of Leawood.

A "solicitation" as defined herein shall be deemed completed when made, whether or not the person making the solicitation receives any contribution or makes any sale.

- (i) "**Solicitor**" as used in this Article means a person who solicits for himself or any other person.
- (j) "**Commercial handbill**" is any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:
 - (1) Which advertises for sale any merchandise, product, commodity or thing; or
 - (2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.

For purposes of this ordinance the term "commercial handbill" shall not be construed to include mail delivered by the United States Postal Service or newspapers duly entered with the Post Office Department of the United States and newspapers filed and recorded with any recording officer as provided by general law or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(Ord. 1446C; 10-17-94)
(Code 2000)

(Ord. 2040C; 02-02-04)
(Ord. 2759C; 11-02-15)

- 5-203. SOLICITATION PERMITS REQUIRED.** Every solicitor, of whatsoever form or nature must obtain a permit from the City before soliciting within the City. In order to obtain a permit to solicit, the applicant must furnish the information required under this Article to the Chief of Police or his/her designee.

(Ord. 1002C; 10-06-87)
(Code 2000)

(Ord. 2040C; 02-02-04)
(Ord. 2759C; 11-02-15)

- 5-204. INFORMATION REQUIRED ON APPLICATION FOR SOLICITATION PERMIT.** An applicant for a solicitation permit shall furnish to the Chief of Police or his/her designee an application containing the following information:

- (a) The name and address of the principal office of the person applying for the permit (including both local and non-local principal officer where such exist);
- (b) If the applicant is not an individual, the names, addresses and other identifying information of the applicant's principal officers and executives;
- (c) The purpose for which the solicitation is to be made;
- (d) The name, address and other information necessary to conduct a background check of the person or persons who will be making the solicitations;
- (e) The time when the solicitations will be made, giving the expected dates for the commencement and termination of the solicitations, subject to the limitations on time for solicitations contained in this Article;
- (f) A statement acknowledging that if a permit is granted:
 - (1) It will not be used or represented in any way as an endorsement by the City of Leawood or by any City department or officer; and
 - (2) That during the period specified in the permit, if there is any change in fact, policy or method that would alter the information given in the application, the applicant will notify the Chief of Police or his/her designee in writing as soon as possible, but no later than forty-eight (48) hours after such change; and

- (3) That at no time during the period of solicitation will the applicant or his or her agents solicit at any residence within the City where there is clearly and visibly posted any sign requesting "No Solicitation," or "No Trespassing" or words of similar import; and
- (4) That all solicitors will carry on their person a copy of the solicitation permit issued by the City.
- (g) A sample of the identification badge or card that each solicitor shall wear or carry, indicating that person's name and the name of the organization for which he or she is soliciting. Such badge or card shall be furnished by the organization and be approved by the Chief of Police or his/her designee.
- (h) A statement acknowledging that no person or entity who will be soliciting under the permit for which application is made has, within the five years preceding the date of filing of an application for solicitation permit, been convicted of a felony, misdemeanor or other violation of the laws of the United States or of any state or city of the United States where such conviction was for an offense involving force or threat of force, theft, dishonesty, fraud, or sexual misconduct; or is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 et seq., or pursuant to an offender registration act of any other state; or has, within 24 months preceding the date of filing of an application for solicitation permit, been convicted of a violation of this ordinance or the solicitation ordinance of any other city.

(Ord. 1446C; 10-17-94)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-205. STANDARDS FOR ISSUANCE.

- (a) The Chief of Police or his/her designee shall, except as provided by this ordinance, issue a solicitation permit provided for by this Article upon receiving a completed application form from the applicant or their representative, and any applicable fees.
- (b) The Chief of Police or his/her designee shall not issue a solicitation permit to any person or entity that has, within the five years preceding the date of filing of an application for solicitation permit, been convicted of a felony, misdemeanor or other violation of the laws of the United States or of any state or city of the United States where such conviction was for an offense involving force or threat of force, theft, dishonesty, fraud, or sexual misconduct; or is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 et seq., or pursuant to an offender registration act of any other state; or to any person or entity that has, within 24 months preceding the date of filing of an application for solicitation permit, been convicted of violating this ordinance or the solicitation ordinance of any other city.

- (c) On refusal, the Chief of Police or his/her designee shall notify the applicant by personal service or regular mail at the address provided on the application. The notice shall advise the applicant of the reason for refusal, and that he or she may appeal said refusal to the Governing Body in accordance with Section 5-206 of this ordinance.

(Ord. 1446C; 10-17-94)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-206. APPEAL FROM REFUSAL TO ISSUE PERMIT.

- (a) Any person who is aggrieved by the refusal of the Chief of Police or his/her designee to issue a solicitation permit may appeal said refusal to the Governing Body. The appeal must be in writing and state the basis for appeal, and shall be served upon the City Clerk no later than fourteen (14) days following the date of the notice of refusal. Upon receipt of an appeal, the City Clerk shall schedule the matter to be heard before the next available Governing Body meeting, unless the applicant requests a later date. For purposes of this section, "next available Governing Body meeting" includes only regularly scheduled meetings that are more than seven (7) days from the receipt of the appeal. At the hearing, the applicant has the burden of proof to show the information relied upon by the Chief of Police or his/her designee to support refusal is incorrect or unreliable. The Governing Body may uphold or reverse the refusal to issue a permit, and its decision shall be final. Nothing in this section shall be construed to preclude the applicant from asking the Chief of Police to reconsider and providing information in support, but such request shall not toll the time period for appeal.
- (b) Any person who has been refused a solicitation permit, or whose privilege to solicit has been refused, may not reapply for a solicitation permit for a period of 24 months.

(Ord. 2759C; 11-02-15)

5-207. FEES. There shall be a non-refundable processing fee for each individual who desires to be listed on a permit pursuant to this Article. Said fees shall be assessed as set forth in the City's fee schedule.

(Ord. 1002C; 10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-208. CONTENTS OF PERMIT. Permits issued under the provisions of this Article should bear the name and address of the person to whom the permit is issued, the number of the permit, the names of all person approved to solicit on behalf of the permit holder, the dates and times within which the persons may solicit, a statement that the permit does not constitute an endorsement by the City or by any of its departments, officers or employees, of the purpose or the person conducting the solicitation, and the signature of the Chief of Police or his/her designee.

(Ord. 1002C; 10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-209. TERM OF PERMIT. Permits issued pursuant to this Article shall authorize the holder thereof to solicit for the number of days requested in the application, not to exceed ninety (90) consecutive days. Applications for renewal of permits may be made and shall be granted if the requirements of this Article are still being met and no violations of the permit or this Article have been found to exist.

(Ord. 1002C; 10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-210. PERMITS NONTRANSFERABLE. No permit issued under the provisions of this Article shall be transferable or assignable.

(Ord. 1002C; 10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-211. REVOCATION OF PERMITS; APPEALS.

- (a) Any determination by the Chief of Police or his/her designee that the holder of a city solicitation permit or any person listed on the permit has violated any provision of this Article or of the permit, or that the holder of the permit has made false representations in the application for the permit, shall be grounds for revocation of the permit. The Chief of Police or his/her designee shall give written notice to the permit holder that the permit is immediately revoked. The notice of revocation may served in person or by regular mail upon the permit holder at the address provided on the application. The notice of revocation shall advise the permit holder that he or she may appeal the revocation to the Governing Body by filing a notice of appeal with the City Clerk no later than fourteen (14) days following the date of the notice of revocation. Upon timely receipt of an appeal, the City Clerk shall schedule the matter to be heard before the next available Governing Body meeting, unless the permit holder requests a later date. For purposes of this section, "next available Governing Body meeting" includes only regularly scheduled meetings that are more than seven (7) days from the receipt of the appeal. At the hearing, the applicant has the burden of proof to show the revocation was unreasonable. The Governing Body may uphold or reverse the revocation, and its decision shall be final.

- (b) Any person whose permit or privilege to solicit has been revoked may not reapply for a solicitation permit for a period of 24 months. This shall include any entity directly or indirectly owned, managed or operated by the person revoked.

(Ord. 1446C; 10-17-94)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

- 5-212. UNIFORMITY OF ADMINISTRATION OF ARTICLE.** The Chief of Police or his/her designee is directed to administer this Article uniformly, and is to require all applicants to submit the application and supporting data required by this Article before issuing a permit. All applicants are to be treated alike.

(Ord. 1002C; 10-06-87)

(Code 2000)

(Ord. 2040C; 02-02-04)

(Ord. 2759C; 11-02-15)

5-213. PROHIBITED ACTS.

- (a) It shall be unlawful for any solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words "No Solicitors," "No Trespassers," or words of similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided that this paragraph shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof. For purposes of this section, the No Solicitors decal issued by the Chief of Police or his/her designee prominently displayed on the door shall constitute sufficient notice to all solicitors. However, other similar signs, as defined above, are also sufficient.
- (b) It shall be unlawful for any solicitor to solicit prior to 10:00 a.m. or after 8:00 p.m. local time, of any day.
- (c) It shall be unlawful for any solicitor to engage in soliciting upon any premises or in any dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises or residence.
- (d) It shall be unlawful for any solicitor to make more than one solicitation call at the same residential premises for identical goods, services, or contributions within any consecutive sixty (60) day period, without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.

- (e) It shall be unlawful for any solicitor to fail at the outset to disclose to the prospective buyer, prospective donor, or canvasee his/her name and the name of the company, product or organization he/she represents.
- (f) It shall be unlawful for any solicitor to make any assertion, representation or statement which misrepresents the purpose of his/her call, or use any plan, scheme, or ruse which misrepresents such purpose.
- (g) It shall be unlawful for any solicitor to conduct his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase 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.
- (h) It shall be unlawful for any person to solicit within the City of Leawood who has been convicted of a felony, misdemeanor, or ordinance violation involving force or threat of force, theft, dishonesty, fraud, or sexual misconduct within the past five (5) years; or who is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 et seq., or pursuant to an offender registration act of any other state; or who has, within the past 24 months, been convicted of violating this ordinance or the solicitation ordinance of any other city.
- (i) It shall be unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence.
- (j) It shall be unlawful for any person to solicit or attempt to solicit without carrying upon their person a copy of the permit issued by the City of Leawood authorizing solicitation and an identification badge or card reviewed and approved by the Chief of Police as described in Section 5-204(g) of this ordinance.

(Ord. 1446C; 10-17-94)
 (Code 2000)
 (Ord. 2040C; 02-02-04)
 (Ord. 2759C; 11-02-15)

5-214.

PENALTIES.

Any person who violates or causes to be violated any provision of this Article shall be guilty of a municipal offense and, upon conviction thereof, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding 30 days, or both such fine and imprisonment. For a second or subsequent violation, in addition to any jail penalty imposed, the minimum fine shall be not less than Five Hundred Dollars (\$500.00). Each day that the violation continues shall be deemed a separate offense.

(Ord. 1002C; 10-06-87)
 (Code 2000)
 (Ord. 2040C; 02-02-04)
 (Ord. 2172C; 07-17-06)
 (Ord. 2759C; 11-02-15)