

AN ORDINANCE OF THE CITY OF WATHENA, KANSAS, PROVIDING FOR THE LICENSING OF CANVASSERS, SOLICITORS, PEDDLERS, TRANSIENT MERCHANTS, ITINERANT MERCHANTS, AND ITINERANT VENDORS; ESTABLISHING A PROCEDURE FOR LICENSE APPLICATION AND ISSUANCE; PROVIDING FOR LICENSE RENEWAL; ESTABLISHING A PROCEDURE FOR THE DENIAL, REVOCATION OR SUSPENSION OF LICENSE; SETTING FORTH A METHOD OF APPEAL OF ANY DENIAL, REVOCATION OR SUSPENSION OF LICENSE; AND REPEALING ORDINANCE NO. 226 AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES OF THE CITY IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA, KANSAS;

SECTION 1. DEFINITIONS. For the purpose of this ordinance, the following words shall be considered to have the following meanings:

- (a) "Soliciting" shall mean and include any one or more of the following activities:
 - (i) 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; or,
 - (ii) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or,
 - (iii) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- (b) "Residence" shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (c) "Canvasser" or "Solicitor" shall mean any individual, whether a resident of the City of Wathena 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 of Wathena for the sole purpose of exhibiting samples and taking orders for future delivery.

- (d) "Peddler" shall mean any person, whether a resident of the City of Wathena or not, traveling by foot, automobile 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 ordinance shall be deemed a peddler.
- (e) "Transient merchant", "itinerant merchant" or "itinerant vendor" are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the City of Wathena or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or

boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City of Wathena, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

- (f) "Street salesman" shall mean 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 the City of Wathena.

SECTION 2. LICENSE REQUIRED; WAIVER. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this ordinance, within the corporate limits of the City of Wathena, Doniphan County, Kansas (herein the "City") without first having been issued a license pursuant to this ordinance.

(b) The Governing Body of the City (herein 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 Section 6(b) below.

SECTION 3. LICENSE APPLICATION; CONTENTS. Prior to the issuance of any license pursuant to this ordinance, the City Clerk shall require the applicant to complete, in duplicate, a sworn application. The application shall be on a form supplied by the City Clerk and provide the following information:

- (a) Name of applicant;
(b) Permanent home address and full local address of applicant;

- (c) Identification of applicant including date of birth, current drivers license number, and physical description of applicant;
- (d) Identification of vehicle, including license tag number, used by applicant in conducting 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 the applicant has been engaged in business;
- (f) If employed, the name and address of the employer, together with credentials establishing such relationship, and a written statement from the employer authorizing the applicant to represent the employer in the City;
- (g) The length of time which business is proposed to be carried on;
- (h) The place where services are to be performed;
- (i) The place where goods or property proposed to be sold are manufactured or produced;
- (j) The location of the goods or products to be sold at the time the application is filed;
- (k) The proposed method of delivery of the goods or products to be sold;
- (l) A photograph of the applicant, taken within 90 days prior to the date of making application. The picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (m) 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 offense, the punishment assessed and the City and state where conviction occurred.
- (n) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of the crime of theft, larceny, fraud or any felony.
- (o) The applicant's Kansas Sales Tax number.

SECTION 4. INVESTIGATION OF APPLICANT; NOTICE OF FINDINGS. (a) Upon receipt of an application the City Clerk shall

within fourteen days from the date of the application, cause an investigation of the facts stated therein to be made.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated in the application are untrue, the City Clerk shall notify the applicant that the application is disapproved and no license will be issued.

(c) If, as a result of the investigation, the applicants character and business responsibility are found to be satisfactory and the facts stated in the application are true, the City Clerk shall submit such application to the Governing Body for review at its next regular scheduled council meeting to determine whether a license in compliance with Section 5 below should be issued.

SECTION 5. ISSUANCE; FORM OF LICENSE. (a) Upon approval of an application by the Governing Body and payment of all costs associated therewith, the City Clerk shall issue a license to the applicant to engage in the business described in the application.

(b) The license issued shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the issuance and expiration date of the license and the nature of the business involved. The City Clerk shall keep a permanent record of all licenses issued. Said license shall be in words and figures substantially as follows:

LICENSE

THE CITY OF WATHENA, KANSAS, TO ALL TO WHOM THESE PRESENTS SHALL COME - GREETING:

KNOW YE, THAT WHEREAS, the Mayor and Governing Body of the City of Wathena, Kansas, on the _____ day of _____, 19____, duly approved the application of _____ for a license to engage in the occupation or pursuit hereinafter described in said City of Wathena; and,

WHEREAS the above named has satisfactorily met and complied with all of the prerequisites and the requirements of Ordinance No. _____ of said City of Wathena prior to engaging in said occupation;

NOW, THEREFORE, the said _____,
by these presents is hereby licensed, authorized and
empowered to engage in the occupation and pursuit of
_____ in said City of Wathena,
Kansas, from date hereof until _____, 19____.

IN TESTIMONY WHEREOF, the said City of Wathena,
has caused this license to be executed by the Mayor of
said City, attested by the City Clerk, and the seal of
said City to be hereunto affixed at the City Hall in the
City of Wathena, Kansas, this ___ day of _____, 19____.

THE CITY OF WATHENA, KANSAS

BY: _____
Mayor

(CITY SEAL)

ATTEST:

City Clerk

SECTION 6. LICENSE FEE; EXEMPTIONS; LICENSE TERM.

(a) Except as provided in subsection (b) immediately below, the fee for the license required pursuant to Section 2 shall be in the amount of \$20.00 per year.

(b) 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 which 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)

SECTION 6. LICENSE EXPLANATION; LICENSE RENEWAL; REAPPLICATION. (a) Any license granted shall be effective for the calendar year in which it was issued.

(b) All licenses issued shall be renewable for a period of three months prior to the expiration date. The City Clerk shall

not require an application from any current licensee unless complaints have been received regarding violations of the conditions under which any license has heretofore been issued. The City Clerk shall not renew or extend any license where there is satisfactory evidence for the suspension or revocation of any prior license.

(c) In those instances where the City Clerk denies renewal the applicant shall be required to apply for a new license in the manner and form as set forth in Section 3 above.

SECTION 7. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The City Clerk may deny any application or may revoke or suspend a license issued under this ordinance for a period of not to exceed six months for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the business.
- (3) Any violation of this ordinance.
- (4) Conducting a business as defined in Section 1 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.
- (5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(b) Notice of the denial, revocation or suspension of a license shall be in writing and be hand delivered or mailed to the applicants last known address and shall set forth the grounds of such denial, revocation or suspension.

SECTION 8. APPEAL TO GOVERNING BODY; NOTICE, HEARING; DECISION FINAL. (a) Any applicant aggrieved by an action taken pursuant to paragraphs 4(b) and 7 above shall have the right to appeal such action to the Governing Body.

(b) An appeal shall be taken by filing a notice of appeal with the City Clerk within 14 days after service of the notice of revocation, suspension or denial of the license shall

have been made upon the applicant. Upon receipt of the Notice of Appeal the City Clerk shall inform the Governing Body an appeal has been taken. The Governing Body shall thereafter set a time and place for a hearing on such appeal. Notice of the time and place of the appeal hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension of the license.

(c) The decision and order of the Governing Body on such appeal shall be final and conclusive.

SECTION 9. DISPLAY OF LICENSE. 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.

SECTION 10. 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 where the operations might impede or inconvenience the public.


SECTION 11. 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 which such licensee purposes to sell.

SECTION 12. REPEALER. Ordinance No. 226 and all other ordinances and sections of ordinances of the City of Wathena, Kansas, in conflict herewith are hereby repealed.

SECTION 13. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in The Wathena Times, official city newspaper.

Ordinance No. 472
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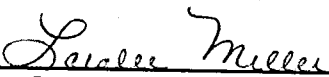
IT IS PASSED by the Council and APPROVED by the Mayor on
the 3rd day of JANUARY, 1995.



Jack Slaughter, Mayor

ATTEST:

(CITY SEAL)



Laralee Miller, City Clerk