

ORDINANCE NO. 1040

AN ORDINANCE OF THE CITY OF LANSING, KANSAS AMENDING UNDER CHAPTER 5, ARTICLE 2, OF THE CODE OF THE CITY OF LANSING, KANSAS, AND AMENDMENTS THERETO.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LANSING, KANSAS:

SECTION 1. Chapter 5, Article 2, of the code of the City of Lansing is hereby amended to read as follows:

Sec. 5-201 Definitions.

For the purposes of this article, the following words as used herein shall be considered to have the meanings herein ascribed thereto:

Established place of business is any business operated from a permanent building or structure within the City for which the required deposits provided by the City have been made and which place of business is open for business during regular business hours.

Ice cream vendor is any vendor who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public ice cream from a motorized vehicle, defined as a motor driven vehicle possessing two or more wheels, operating on the streets or on property within the City owned by another.

Other vendors operating from a motorized vehicle is any vendor who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public goods, wares, merchandise, or personal property of any nature whatsoever from a motorized vehicle, defined as a motor driven vehicle possessing two or more wheels, operating on the streets or on property within the City owned by another.

Peddler shall mean any person, whether a resident of the City or not, traveling by foot, wagon, 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, 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 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.

Soliciting shall mean and include 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; or
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.

Solicitor or *canvasser* shall mean any individual, whether resident of the City or not, traveling either by foot, wagon, 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, or portion thereof, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a wagon or stand temporarily located on the public streets or sidewalks of this City as authorized by a permit.

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 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, or public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, 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 article 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.

Transient vendor is any person who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public, goods, wares, merchandise, or personal property of any nature whatsoever from a conveyance, stand, table, or other means set up or located on the streets or sidewalks of the City or on property within the City owned by another.

Sec. 5-202 Certificate of registration and license.

No transient vendor, merchant, solicitor, or peddler as defined in Section 5-201 of this article shall engage in such business within the corporate limits of the City without first obtaining a license therefore unless specifically excluded from the permit requirement under Section 5-203. Any applicant for a license under this article shall file with the City Clerk a sworn application as outlined in Section 5-204.

Sec. 5-203 Exclusions.

The provisions of this article shall not apply to:

- A. Sales or displays at trade shows, expositions or conventions, fairs, festivals or shows operated primarily for amusement, entertainment, recreation, or education.
- B. Sales or displays at public 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.

- C. Persons soliciting for a charitable contribution, as long as the person soliciting charitable funds submits a letter to the City Clerk identifying the recipient of the funds, fund raising methods and the dates during which the funds will be collected.
- D. Persons advertising or offering goods, wares, merchandise, or services by the hanging of any flyer or handbill on any residence or business door provided that no contact or attempt at physical or verbal contact is made.
- E. Persons advertising or offering goods, wares, merchandise, or services by placing flyers or handbills on vehicles, however, in lieu of a permit, persons distributing handbills on vehicles located on private property must obtain prior permission of the property owner.
- F. Federal, state, county or City census takers or political candidates or their agents.
- G. Advertisements and solicitations delivered by the United States Post Office and newspapers filed and recorded with any recording officer as provided by law or any periodical or current magazine regularly published with not less than four issues per year and sold to the public.
- H. Persons distributing information for noncommercial purposes or proselytizing, poll-taking or other similar activity for noncommercial purposes.
- I. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business.
- J. Fairs and convention center activities conducted primarily for amusement or entertainment.
- K. Any general fair, auction, or bazaar sponsored by any church, religious, or non-profit organization.
- L. Garage sales held on premises devoted to residential use.
- M. Sales of agricultural goods raised or produced by the seller and sold at an approved Farmer's Market.
- N. School sponsored bazaars and sales, and concessions at school athletic events; and,
- O. Promotional trade or hobby shows conducted within structures which are zoned, and site planned for commercial use pursuant to the Unified Development Ordinance (UDO).

Sec. 5-204 License required.

All persons defined in Section 5-201 and 5-301.A, except those excluded per Section 5-203, desiring to do business within the City shall apply at least two (2) business days prior to the start of peddling or soliciting to the City Clerk for a license authorizing such business. Applications for licenses shall be sworn and in writing and shall contain the following information:

- A. Name, date of birth, a copy of the applicant's state or federally issued photo identification card, and applicant's Kansas Sales Tax Certificate, if applicable, designating the City of Lansing as recipient of municipal sales taxes collected.
- B. Address of applicant and address of location, if in a set location, where applicant intends to offer goods, wares, merchandise, or personal property for sale.
- C. A brief description of the nature of the business to be conducted and the goods to be sold, and if the goods are farm or orchard products, a statement whether they are produced or grown by applicant, and if not, the name and address of the producer or grower.

- D. If applicant is employed, name and address of the employer, together with credentials establishing applicant's relationship to such employer.
- E. Length of time for which the right to do business is desired.
- F. If a vehicle is to be used, a description of the same, together with the state vehicle license number carried on such vehicle.
- G. 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, or violation of any municipal ordinance regulating transient vendors, and if so, the nature of the offense and the punishment or penalty assessed therefor.
- H. If doing business from a set location, the application shall be accompanied by the written permission of the owner, or tenant in possession of the location described in the application, from which or in front of which the application intends to offer goods, services, merchandise or personal property for sale.

Sec. 5-205 Licensing procedure.

No license shall be issued to conduct business within the City to any applicant who has within two years preceding the date of such application been convicted of any crime or misdemeanor, other than a traffic offense, or of violating any municipal law regulating vendors. All applications for licenses hereunder shall be approved by the City Clerk. Upon receipt of an application, the City Clerk shall forthwith submit copies to the Chief of Police or his or her designated representative. In the absence of the City Clerk, the City employee then in charge of the business office of the City, shall investigate the qualifications of license applicants and approve or disapprove the issuance of licenses.

Sec. 5-206 Issuance of license.

Upon receipt of a completed application, the City Clerk shall issue a license badge. Such license badge shall contain the name of the licensee, the company the licensee is representing, the length of time the license shall be operative, and a photo of the licensee.

The City Clerk shall keep a permanent record of all such licenses issued. The licensee shall always carry the license badge and show it to any resident or officer of the City should they request to see it. The license badge is not and may not be used as an endorsement of the City.

Sec. 5-207 License fees.

- A. *Transient vendor.* A fee of \$25.00 shall be charged for each licensee and shall be valid for a period of not more than three consecutive days; or \$60.00 for a period of one week (7 days); or \$125.00 for a period of one month.
- B. *Ice cream vendor.* A fee of \$75.00 shall be charged for each licensee and shall be valid to December 31st of that year. In addition, the current fee required to run a background check will also be charged by the City Clerk.
- C. *Food carts, food trucks, or other vendors operating from a motorized vehicle.* A fee of \$75.00 shall be charged for each licensee and shall be valid to December 31st of that year. If vendor is selling food or beverages, the licensee must also obtain a Food Establishment license.

Sec. 5-208 Fees for license; transferability; exhibition

The fees for the license required by this article shall be as prescribed by Section 5-207. No license issued under the provisions of this article shall be used by any person, other than the one to whom it was issued. Any person engaged in activities as described in Section 5-201 shall exhibit their

licenses at the request of any citizen. No fee shall be required of one selling products of the farm or orchard produced by the seller.

Sec. 5-209 Prohibited acts

- A. No vendor shall sell or offer to sell to the general public goods, wares, merchandise, or personal property of any nature whatsoever without first obtaining a license to do so as required by this article.
- B. Making any assertion, representation or statement or using any plan or scheme which misrepresents the purpose of the visit
- C. Transient vendors may only conduct business from 9:00 a.m. to 8:00 p.m. Sales are prohibited during all other times.
- D. The maximum speed at which the motorized vehicle may travel while selling or offering to sell goods to the general public shall not exceed 12 miles per hour.
- E. No transient vendor shall make more than two stops in any one block.
- F. Vendors may only solicit at the main entrance of a residence and may not solicit to the same residence more than once in a 30 day period.
- G. Sales are prohibited to persons standing in a City street.
- H. Double parking is prohibited.
- I. U-turns are prohibited.
- J. Driving in a reverse direction is prohibited.
- K. Loitering is prohibited.
- L. Soliciting at residences or businesses that have a 'No Solicitors' or 'No Trespassers' sign is prohibited.
- M. Vendors must leave a residence or business should the owner ask you to leave. Violators can be arrested and prosecuted for criminal trespassing.
- N. Using the license badge as an endorsement of the City or by any department or officer of the City.

Sec. 5-210 Revocation of license.

- A. The Chief of Police, his/or her designee, the Community and Economic Development Director, his/or her designee, and any Code Enforcement Officer may revoke any license issued under this article, for any of the following causes:
 - 1. Any violation of this article.
 - 2. Conducting the business as defined in Section 5-209 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 revocation of a license shall be in writing to the applicant and the City Clerk and set forth the grounds of revocation.
 - 3. Fraud, misrepresentation or false statement contained in the application for license.
 - 4. Fraud, misrepresentation or false statement made in the course of carrying on the business.
 - 5. Unauthorized use of the public right-of-way for sale or display of merchandise, or for display of an advertising sign.

6. Violation of a site plan requirement for an existing land use or violation of the Unified Development Ordinance (UDO).
7. Multiple complaints regarding aggressive behavior including persistence or rudeness.

If a license is revoked for any reason, no refunds will be issued for application or permitting fees.

- B. Any person aggrieved by the action of the Chief of Police, City Clerk, or other employee of the City in the denial of an application or revocation of a license as provided in this article, shall have the right of appeal to the Governing Body. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of revocation or denial of the license has been mailed to such applicant's last known address setting forth the grounds for appeal. 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 hearing on revocation. The decision and order of the Governing Body on such appeal shall be final and conclusive.

Sec. 5-211 Penalty.

Any violation of the terms of this article is declared to be a violation of this code and any person convicted of such violation is punishable by a minimum fine of \$150.00 and a maximum fine not to exceed \$500.00 or by imprisonment in the Leavenworth County Jail for not to exceed 10 days, or by both such fine and imprisonment.

Sec. 5-212 Disturbing the peace.

No peddler, canvasser or solicitor, nor any person in his or her behalf, shall shout, make an outcry, blow a horn, ring a bell or 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 therefore 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 proposes to sell; however, such regulations shall not apply to ice cream vendors selling from vehicles.

Sec. 5-213 Structures.

No person conducting activities pursuant to this article shall erect or cause to be erected out of doors any temporary structure, awning, tent, or stand for the purpose of storing, selling, or displaying goods or services without prior approval of the Community and Economic Development Department.

Sec. 5-214 Improved surfaces/parking.

No person shall conduct activities pursuant to this article on unimproved surfaces, or on a parking lot or aisleway area that constitutes a required parking area under the provisions of the Unified Development Ordinance (UDO).

Sec. 5-215 Setbacks.

Display of merchandise and parking of vehicles for the sale or display of merchandise shall be subject to the building setback requirements of the zoning district in which any activity subject to the provisions of this article is being conducted.

Sec. 5-216 Signs.

Signs shall be limited to one sign per location and shall comply with the rules and regulations promulgated by the Unified Development Ordinance (UDO). No sign shall be placed in City-owned right of way.

Sec. 5-217 Vehicles.

No transient merchants shall sell products or services directly from any vehicle exceeding two (2) tons in rated load capacity.

Sec. 5-218 Use of street.

No peddler shall have any exclusive right to any location in the public streets. No peddler shall be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this article, 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.

Sec. 5-219 Enforcement.

It shall be the duty of any police officer, Community and Economic Development Director or his/her designee, or Code Enforcement Officer to require any person engaged in the activities as defined in this article, who is not known by such officer to be duly licensed, to produce his or her license badge and to enforce the provisions of this article against any person found to be violating the same.

SECTION 2. AMEND. This ordinance shall amend Chapter 5, Article 2, of the Lansing City Code.

SECTION 3. SEVERABILITY. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by a court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 4. This ordinance shall take effect from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Lansing, County of Leavenworth, State of Kansas, this 7th day of May 2020.

{SEAL}

Michael W. Smith, Mayor

Attest:

Sarah Bodensteiner, City Clerk

APPROVED AS TO FORM:

Gregory Robinson, City Attorney

Published: *Leavenworth Times*

Date Published:

CITY OF LANSING
FORM OF SUMMARY FOR PUBLICATION OF ORDINANCE

Ordinance No. 1040: An Ordinance of the City of Lansing Kansas Amending Under Chapter 5, Article 2, of the Code of the City of Lansing, Kansas and Amendments Thereto.

Pursuant to the general laws of the State, a general summary of the subject matter contained in this ordinance shall be published in the official City newspaper in substantially the following form:

Ordinance No. 1040 Summary:

On May 7, 2020, the City of Lansing, Kansas, adopted Ordinance No. 1040, amending Chapter 5 Article 2 of the Code of the City of Lansing, Kansas and amendments thereto. A complete copy of this ordinance is available at www.lansingsks.org or at City Hall, 800 First Terrace, Lansing, KS 66043. This summary certified by Gregory C. Robinson, City Attorney.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: May 7, 2020

Gregory C. Robinson, City Attorney