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ORDINANCE NO. 1002
AN ORDINANCE AMENDING SECTION 3.12 OF THE CLEARWATER MUNICIPAL
CODE AND REPEALING THE OLD SECTIONS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER,
KANSAS:

SECTION 1: That Chapter 3.12 of the Municipal Code of the City of Clearwater, Kansas is amended to read:

CHAPTER 3.12. SOLICITORS, CANVASSERS, PEDDLERS

3.12.010. Definitions.

For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting means and includes anyone 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 whatsoever, for any kind of consideration whatsoever; 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.

(b) Residence means and includes 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 means any individual, whether resident of the city 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 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 or not, traveling by foot, 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, 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 article shall be deemed a peddler .

(e) Transient Merchant, Itinerant Merchant and 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, tent, railroad boxcar, or boat, 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.

(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 this city.

3.12.020. License required.

(a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the City Clerk.

(b) Members of groups, organizations and corporations, which are recognized as being not for profit under the Kansas Corporation Code and/or the U.S. Internal Revenue Code, shall be exempted from the provisions of this article while participating in fund raising events for such not for profit group, organization or corporation.

(c) The Governing Body may waive the license requirements of this section for any person, firm.

3.12.030. Same; application required.

Before the City Clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared on a form to be supplied by the City Clerk which shall give the following information:

(a) Name and description of applicant;

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

- (c) A photo Identification of applicant including driver's license number, date of birth, expiration date of license and description of applicant;
- (d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her 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 such applicant has been engaged in the business;
- (f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;
- (g) The length of time which business is proposed to be carried on;
- (h) The place where services are to be performed or where the goods or property 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;
- (i) Any certificates, licenses or other authorizations as may be required by the city, state or other regulatory bodies applicable to the applicant's proposed solicitation activity;
- (j) 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 offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred; and
- (k) The applicant's Kansas Sales Tax number, if applicable.

3.12.040. Application fee.

The application shall be accompanied by a fee of \$100.00 and a \$25.00 background check fee or as amended by resolution of the governing body of the City to cover the cost of investigation of the applicant's qualifications. This fee is not refundable if the registration is refused for any reason or if applicant withdraws the application at any time after the close of business on the day during which it was submitted.

3.12.050. Investigation and issuance.

Upon receipt of the above application from an applicant, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the facts stated therein to be made within five days.

- (a) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the Chief of Police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the City Clerk who

then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(b) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the Chief of Police shall endorse his or her findings and approval on the application and return the same to the City Clerk who shall issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. 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.

3.12.060. Time limits; fees; exemptions.

(a) It is unlawful for any solicitor to call at any residence prior to the hour of 9 a.m. or after sunset, except by appointment.

(b) Fees, duration and expiration of each such license granted may be amended by resolution of the Governing Body.

(c) No fee shall be imposed against any producer, grower, or agent or employee of such grower, engaged in the sale of agricultural, farm, garden or aquaculture products grown by such growers residing within the State of Kansas.

3.12.070. Renewal.

All licenses issued shall be subject to renewal upon a showing of compliance with sections 3.12.020;030 of this article on an annual basis beginning January 1 of the following year. The City Clerk need not require an additional application under section 3.12.030 unless complaints have been received of 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 of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license.

3.12.080. Denial, revocation or suspension of license; notice.

(a) The City Clerk or Chief of Police may deny any application or may revoke or suspend for a period or not to exceed 30 days any license issued under this article, 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 article.

(4) Conducting a business as defined in section 3.12.010 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 denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the City Clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony following or within two years prior to the application date.

3.12.090. Appeal to governing body.

(a) Any person aggrieved by the action of the Chief of Police or City Clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the Governing Body.

(b) Such appeal shall be taken by filing with the City Clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) 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 denial, revocation or suspension.

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

3.12.100. Regulations.

(a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality or nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) 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.

(c) It shall be unlawful to call at any residence or other place bearing a notice of "No Peddlers" or "No Solicitors" or words of a similar meaning, providing such notice is posted in a conspicuous place upon or near the main entrance.

3.12.110. 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 or rights-of-way for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets or rights-of-way, nor shall any person be permitted to operate in the sidewalks, streets, or rights-of-way within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public.

3.12.120. 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 proposes to sell.

SECTION 2: That Existing Sections of 3.12 of the Municipal Code of the City of Clearwater, Kansas, as they existed prior to these amendments, are hereby repealed.

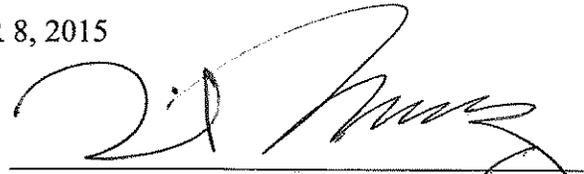
SECTION 3: Effective Date.

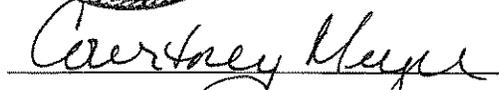
This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

PASSED BY THE GOVERNING BODY ON SEPTEMBER 8, 2015

APPROVED BY THE MAYOR ON SEPTEMBER 8, 2015




Burt Ussery, Mayor


Courtney Meyer, City Clerk