

The City of Roeland Park, Kansas

*4600 West Fifty-First Street
Roeland Park, Kansas 66205
City Hall (913) 722-2600 – Fax (913) 722-3713*



PEDDLERS, TRANSIENT MERCHANTS APPLICATION 5-201 - 5-207

Effective 1/1/04, Approved by Council 12/3/03



The City of Roeland Park, Kansas

4600 West Fifty-First Street

Roeland Park, Kansas 66205

City Hall (913) 722-2600 – Fax (913) 722-3713

To be filled in by City:

Date filed: _____

Case no.: _____

City of Roeland Park, Kansas

ARTICLE 2. PEDDLERS, TRANSIENT MERCHANTS 5-201

Application for Special Use Permit (5-207)

Fee: \$20.00 Per day/Per person

A) Applicant _____ Date of Birth: _____

Kansas Sales Tax # _____

B) Applicants Address _____

Location address of property where intending to sell goods: _____

C) Name of Business and description of goods to be sold: _____

D) If employed, name and address of employer (attach credentials). _____

E) Length of time for right to do business: _____

F) Description of vehicle and license number: _____

G) Have you within the prior two years been convicted of any crime, misdemeanor, or violation of any municipal ordinance regulation. _____ Y _____ N

If yes, nature of offense and punishment or penalty assessed: _____

H) Each 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.

I) Submit a copy of a paid personal property tax receipt from the Johnson County Treasurer or another county treasurer in the State of Kansas for all goods or merchandise brought into Johnson County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale.

J) As a condition precedent to the issuance of a license as provided herein, any applicant wishing to sell firearms or previously owned (used) merchandise, including automobiles, shall agree on his behalf and on the behalf of all employees and agents engaged by him in the conduct of such business to make available for inspection by any law enforcement officer any and all such merchandise being sold in the course of the applicant's business. At the request of any law enforcement officer, the applicant shall provide serial numbers or other identification numbers for such merchandise marked with serial numbers or identification numbers as is being offered for sale by such applicant, his or her employees or agents.

NAME

ADDRESS

DOB

SSN#

Findings of the City Council

5-206. SPECIAL USE PERMIT REQUIRED. Before any business described in this article shall be conducted within the city limits of the city, the applicant shall obtain from the city council a special use permit as provided herein.

(a) The city council shall grant the applicant a special use permit if the city council finds all of the following:

_____ (1) The use, as proposed by the applicant, if permitted, will comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;

_____ (2) The use, as proposed by the applicant, if permitted, would be in harmony with the intent and purpose of the city's zoning law or comprehensive plan.

_____ (3) The use, as proposed by the applicant, if permitted, would be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

_____ (4) The use, as proposed by the applicant, if permitted, will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood, and will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity.

_____ (5) The use as proposed by the applicant, if permitted, would have no detrimental effect on vehicular or pedestrian traffic.

_____ (6) The use, as proposed by the applicant, if permitted, would not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area.

_____ (7) The use, as proposed by the applicant, if permitted, would not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements.

(b) In addition to the foregoing findings required to grant a special use permit the city council may deny a special use permit for the particular business, if the city council finds any of the following:

_____ (1) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

_____ (2) The applicant, if an individual, or any of the stockholders holding more than 10% of the stock of the corporation, any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime involving fraud, deceit, theft of property, possession of stolen property or similar crime, unless such conviction occurred at least five years prior to the date of the application.

_____ (3) The applicant has had a similar permit denied, suspended or revoked by any city, state or local agency within five years to the date of the application.

ARTICLE 2. PEDDLERS, TRANSIENT MERCHANTS

5-201. DEFINITIONS. For the purpose of this article, 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:

(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.

(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 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, 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, 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, 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 or itinerant vendor is 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 wagon or stand temporarily located on the public streets or sidewalks of this city.

(Code 1986)

5-202. LICENSE REQUIRED. No person shall engage in the activities as defined in section 5-201 within the corporate limits of the city without first obtaining a certificate of registration and license therefor. Any applicant for a license under this article shall file with the city clerk a

sworn application on a form furnished by the city clerk, which shall give the following information:

(a) Name, date of birth, physical description of applicant, and applicant's Kansas Sales Tax number.

(b) Address of applicant and address of location where applicant intends to offer goods, wares, merchandise or personal property for sale.

(c) A brief description of the name of the business to be conducted and the goods to be sold.

(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 regulation peddlers or transient merchants, and if so, the nature of the offense and the punishment or penalty assessed therefor.

(h) Each 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.

(i) Submit a copy of a paid personal property tax receipt from the Johnson County Treasurer or another county treasurer in the State of Kansas for all goods or merchandise brought into Johnson County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale.

(j) As a condition precedent to the issuance of a license as provided herein, any applicant wishing to sell firearms or previously owned (used) merchandise, including automobiles, shall agree on his behalf and on the behalf of all employees and agents engaged by him in the conduct of such business to make available for inspection by any law enforcement officer any and all such merchandise being sold in the course of the applicant's business. At the request of any law enforcement officer, the applicant shall provide serial numbers or other identification numbers for such merchandise marked with serial numbers or identification numbers as is being offered for sale by such applicant, his or her employees or agents.

(Code 1986; Ord. 523, Sec. 4)

5-203.

ISSUANCE OF LICENSE. Upon receipt of a properly completed application for certificate and license, the city clerk shall place the issuance of such certificate and license on the agenda for the city council meeting next following the date of the receipt of the application. The applicant shall be advised of the time and place at which the city council shall hear the applicant's request for a special use permit and the applicant shall be given the opportunity to be heard concerning the request.

If the city council makes the findings required in section 5-207 hereof, the city council shall grant a special use permit allowing the location described in the application to be used to conduct the business described in the application. In the event that the city council grants such special use permit, the city clerk shall issue a license. 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 the 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 person to whom such license is issued shall have the license in his or her possession at all times while conducting any business within the city.

In the event that the city council fails to grant the special use permit, the applicant shall be advised that the special use permit has not been granted and the applicant's application shall be denied.

(Ord. 523, Sec. 5)

(Revised Ordinance 743, Dated December 3, 2003 effective 1/1/04)

5-204. *LICENSE FEE; EXEMPTIONS.*

(a) *The fee for the license required pursuant to section 5-202 shall be in the amount of \$20 per person for each day, or portion thereof, that the licensee shall solicit within the city limits. Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license between the hours of 8:00 a.m. and 6:00 p.m. No solicitation or sales shall be conducted by any person during any other hours on said date. Provided, further, however, that persons and firms not having a permanently established place of-business in the city, but having a permanently established house to house or wholesale business shall receive such license upon the payment of \$50 for any year, and may make solicitations or sales between the hours of 8:00 a.m. and 6:00 p.m., or upon invitation at any hour.*

(b) *No license fee shall be required of: any person selling products of the farm or orchard actually produced by the seller; 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.(Code 1986)*

5-205. **REVOCATION OF LICENSE.** (a) The chief of police may revoke 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 the businesses as defined in section 5-201 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.

(b) Any person aggrieved by the action of the chief of police or city clerk 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 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. (Code 1986)

5-206. **DISTURBING THE PEACE.** No peddler, canvasser or solicitor, 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. (Code 1986)

5-207. **SPECIAL USE PERMIT REQUIRED.** Before any business described in this article shall be conducted within the city limits of the city, the applicant shall obtain from the city council a special use permit as provided herein.

(a) The city council shall grant the applicant a special use permit if the city council finds all of the following:

- (1) The use, as proposed by the applicant, if permitted, will comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;

(2) The use, as proposed by the applicant, if permitted, would be in harmony with the intent and purpose of the city's zoning law or comprehensive plan.

(3) The use, as proposed by the applicant, if permitted, would be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

(4) The use, as proposed by the applicant, if permitted, will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood, and will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity.

(5) The use as proposed by the applicant, if permitted, would have no detrimental effect on vehicular or pedestrian traffic.

(6) The use, as proposed by the applicant, if permitted, would not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area.

(7) The use, as proposed by the applicant, if permitted, would not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements.

(b) In addition to the foregoing findings required to grant a special use permit the city council may deny a special use permit for the particular business, if the city council finds any of the following:

(1) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(2) The applicant, if an individual, or any of the stockholders holding more than 10% of the stock of the corporation, any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime involving fraud, deceit, theft of property, possession of stolen property or similar crime, unless such conviction occurred at least five years prior to the date of the application.

(3) The applicant has had a similar permit denied, suspended or revoked by any city, state or local agency within five years to the date of the application.

(Ord. 523, Sec. 6)