

CHAPTER 6. LICENSES AND BUSINESS REGULATIONS

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ARTICLE 1. GENERAL PROVISIONS

6-101. DEFINITIONS. For the purposes of this Chapter, the following words and their derivations shall have the meanings given below:

a. "Business" means and includes businesses, trades, occupations, and professions, including but not limited to retail businesses, the renting or leasing of property for residential or business use, and home occupations.

b. "Fee" means an occupation or license fee upon and for the privilege of engaging in business as herein defined.

c. "License" means the documents issued by the City, and signed by the proper officer or officers, acknowledging payment of the required fee and stating the name of the licensee, the business and where located, a description of the business activity, the period which the fee covers, and such other matters as may be required.

d. "Person," as used in this ordinance, means any individual, partnership, corporation, association, or other business entity, who or which is engaged in any business, trade, occupation or profession. Any individual, however, solely in the direct employ of any Person licensed under the provisions of this ordinance is not a Person under the terms of this ordinance.

6-102. APPLICATION. Any Person shall, before engaging in any Business or before continuing such Business after a license has expired, make application for a license and pay the proper fee. Application shall be made to the city clerk, giving the name of the licensee and any other name under which such Business is to be conducted, the kind and address of the Business so licensed, and such other information as may be necessary to determine the amount of fee to be paid or as may be otherwise required under the terms of this Chapter. The city clerk may, in his discretion, cause an investigation to be made to verify the accuracy of the information.

6-103. EXEMPTIONS. Nothing in this Chapter shall be construed as applying to or levying a fee against:

a. Any instrumentality of the government of the United States, unless authorized by the laws of the United States;

b. The interstate portion of any business; or

c. Any organization which is created and operated for charitable, religious, benevolent, fraternal, civic, educational, or similar purposes, and from which no profit is derived, either directly or indirectly, by any individual or any other business, person or organization and which organization is exempt from taxation by state or federal law. The city clerk may require any business, instrumentality or organization claiming to be exempt under this section to file with the city clerk a verified statement stating the facts upon which the exemption is claimed.

6-104. PROHIBITIONS. There shall be no transfers of license from one (1) Person to another except that if a Business, including stock, if any, is sold and the new owner continues the Business at the same location and under the same name, the license shall continue until expiration. If the holder of a license moves a stock of goods from the location stated on the license to another location and begins business at the new location, he may return the license to the city clerk and secure a substitute license upon payment of a fee of ten dollars (\$10) and any additional prorated amount for the unexpired term, should a greater license fee be required at the new location.

6-105. ISSUANCE OF LICENSE. All licenses provided for in this Chapter shall be issued by the city clerk upon compliance with all application requirements and payment of the proper fee to the city clerk as herein set forth.

6-106. RECORD OF LICENSE. The city clerk shall keep records in which shall be entered the names of each and every Person licensed, his or its address, the date of the license, the amount paid therefor, and the time when the license shall expire. The city clerk shall make an annual report to the governing body concerning licenses issued at the first meeting in August of each year.

6-107. DISPLAY OF LICENSE. All Persons doing business in a permanent location are hereby required to have their license conspicuously displayed in their places of business, and all Persons to whom or which licenses are issued not having a permanent place of business are hereby required, within 48 hours of request, to provide proof that they have been issued the required license, when requested to do so by any properly authorized officer of the city.

6-108. POWERS AND INSPECTIONS. Any Persons who or which shall conduct or pursue in the limits of the City any Business for which a license is required after a license should have been obtained to conduct or pursue such Business without having obtained the same shall be deemed to do so unlawfully.

Every Person filing a false application for a license shall be guilty of violating this Chapter. Every Person shall file the application for a license with the city clerk and pay the required fee on or before the specified date each year or before commencing the Business.

6-109. PERSONS LIABLE. When any Person, which is not an individual, engages in any kind of Business herein required to be licensed without first having obtained a license as required, the owner or proprietor, manager, or local agent, or party in charge, may be arrested and fined as provided herein.

6-110. ACTIONS TO COLLECT FEE.

a. The payment of fine or the serving of a jail sentence for failure to pay the fee and

secure a license shall not constitute payment of the fee nor excuse the Person from making payment of the fee, and the City may proceed by civil action to collect the fee.

b. If any person fails or refuses to pay any fee or penalties as provided by this Chapter, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the District Court of Johnson County, Kansas. Such actions may be maintained and prosecuted and all proceedings taken, including any award of post judgment interest, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the City in the enforcement of the payment of such obligations. In such actions, the City also shall be entitled to recover interest at the rate provided for in K.S.A. 79-2968, and amendments thereto, from and after the date on which a delinquency occurs in the payment of such fee or special assessment. If the amount owing is to be assessed against the property, the city clerk, at the time of certifying other taxes to the county clerk, shall certify the aforesaid fees and penalties owing by the property owner, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner of a civil action as described herein, but only until the full cost and any applicable interest has been paid in full.

6-111. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, and upon such terms and conditions as shall be approved by the Governing Body, 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, merchandise or service which such licensee proposes to sell or solicit.

6-112. REFUNDS. No refunds will be made of payments for license fees for any reason.

ARTICLE 2. RETAIL LICENSES

6-201. RETAIL LICENSE REQUIRED. No retail store may conduct business within the corporate limits of this City without obtaining a retail license from the City Clerk.

6-202. RETAIL LICENSE APPLICATION. Any applicant for a retail license under this Article shall file with the City Clerk a sworn application on a form furnished by the City Clerk which shall include the following information:

a. name, address, telephone number, and age, if the applicant is under eighteen (18) years of age, of the applicant;

b. name, address and telephone number of retail business, including legal name and any fictitious names or "dba's";

c. name, address and telephone number of primary contact for the retail business;

- d. a brief description of the products or services to be sold from the retail location;
- and
- e. statement of interior square footage occupied by the retail business.

6-203. RETAIL LICENSE FEE LEVIED. The retail license fee hereby levied shall be calculated as set forth below. All retail stores and offices engaged in the sale or provision of goods or services shall pay an annual retail license fee computed on the basis of a schedule of interior square footage occupied by said business without regard to use, which schedule shall be determined administratively by the Governing Body.

Retail stores which hold themselves out to the public as a single business entity, but which, in fact, are partly or wholly operated on the basis of leased departments therein, shall pay a retail license fee based on the license fee schedule adopted by the Governing Body; provided, however, that leased departments which have a private, individual exterior entrance and which have no entrance into such retail stores even though under a common roof with such retail stores shall pay a retail license fee as a separate business according to the schedule contained in this Chapter.

6-204. ISSUANCE OF LICENSE. Upon receipt of the completed application for a retail license and receipt of the required fee, the City Clerk may, without further consideration, issue the retail license to the applicant.

6-205. RETAIL LICENSE PERIOD. Every retail business shall secure an annual retail license covering the period from January 1st, or the date which the retail business is to be started, until the next succeeding December 31st. Any retail license which is not secured by April 30th, or within thirty days of commencing business for any retail business commencing business after April 30th of that year, shall be considered to be delinquent. In addition to the retail license fee required above, a penalty of five percent (5%) per month shall be added to the retail license fee in case of failure to pay the required retail license fee when due for each month or fraction thereof that the retail license fee remains unpaid. No fee refunds for retail businesses ceasing operations during the year shall be made.

6-206. RIGHT TO INSPECT BUSINESS PROPERTY. The city shall have the right to enter upon the premises of any retail business to determine:

- a. That the use of the property is in compliance with the applicable zoning laws.
- b. That the property meets the requirements of the city's building codes.
- c. That no condition exists in the structure or on the property upon which it is located constituting a violation of any ordinances of the city.
- d. The square footage of the premises for calculation of the retail license fee required under this Chapter.

ARTICLE 3. SOLICITORS

6-301. STATEMENT OF PURPOSE. It is the purpose of this article and chapter 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.

6-302. DEFINITIONS. For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

a. Charitable as used in this chapter 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, eleemosynary, scientific, historical, athletic, medical or religious activities, either actual or implied.

b. City as used in this chapter means the City of Westwood Hills, Kansas.

c. Peddle as used in this chapter 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 for a profit.

d. Peddler as used in this chapter means a person who peddles for himself or any other person.

e. Person as used in this chapter means any individual, firm, partnership, corporation, other business entity, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

f. Solicit and Solicitation as used in this chapter mean and include any one or more of the following:

1. Selling or offering for sale for a profit or taking or attempting to take orders for the sale for a profit, of goods or services of any kind, character or description, while traveling from house-to- house, door-to-door, street-to-street, or from place-to-place in the city.

2. Peddling as defined above in this section.

A solicitation as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale. Solicit and Solicitation as used in this chapter do not include sales or offers to sell made for charitable

purposes by organizations that have qualified for tax-exempt status pursuant to Internal Revenue Code Section 501(c).

g. Solicitor as used in this chapter means a person who solicits for himself, herself, or any other person.

6-303. SOLICITATION PERMITS REQUIRED. All solicitors and companies employing solicitors must register and 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 city clerk.

6-304. EXCEPTIONS. The provisions of section 6-301 of this article shall not apply to solicitations conducted by charitable, religious, benevolent, fraternal, civic, educational or other eleemosynary organizations and associations.

6-305. SOLICITATION PERMIT APPLICATIONS. An applicant for a solicitation permit shall furnish to the city clerk an application containing the following information, on an application form maintained by the city clerk:

a. The name and address of the principal office, and local office if other than the principal office, of the applicant;

b. If the applicant is not an individual, the names and addresses of the applicant's principal officers and executives;

c. The name and address of the person or persons who will be making the solicitations, either on their own behalf or on the behalf of a company employing the solicitors;

d. The address, name, and telephone number of a contact person or supervisor who can be reached while the applicant's solicitors are soliciting within the City.

e. The dates and times during which the solicitations will be made, subject to the limitations on time for solicitations contained in this article;

f. A statement to the effect that if a permit is granted:

1. The applicant and all solicitors covered by the permit will follow and abide by all the City's rules and guidelines pertaining to solicitors;

2. The permit will not be used or represented in any way as an endorsement by the City or by any department or officer thereof;

g. An agreement that the applicant and all persons for whom application is made will carry on their person a copy of the solicitation permit issued by the City, together with a form of picture identification such as a driver's license, while soliciting within the City.

h. The applicant's certification that each solicitor is in compliance with the requirements of Section 6-306(i).

6-306. 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 any residence or dwelling at which a sign bearing the words "No Solicitors" or "No Trespassers," or other similar words indicating that such persons are not wanted on the premises, is 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.

b. It shall be unlawful for any solicitor to solicit prior to 10:00 a.m. or after dusk of any day. In addition, it shall be unlawful for any solicitor to solicit between 5:30 p.m. and 7:00 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 residence or dwelling after having been asked by the owner or occupant to leave the premises, residence, or dwelling.

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 14 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 to provide, at the request of the purchaser, a written receipt for purchases exceeding \$5 in cash or tangible property which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment.

f. It shall be unlawful for any solicitor to fail at the outset to disclose to the prospective buyer the name of the company, product or organization he or she represents.

g. It shall be unlawful for any solicitor to make any assertion, representation or statement which misrepresents the purpose of his or her call, or use any plan, scheme, or ruse which misrepresents such purpose.

h. It shall be unlawful for any solicitor to conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, would increase traffic congestion or delay, would constitute a hazard to traffic, life or property, or would create or cause an obstruction to adequate access to fire, police or sanitation vehicles.

i. It shall be unlawful for any person to solicit who has been convicted of a felony, misdemeanor, or ordinance violation involving force, violence, moral turpitude, deceit, fraud, or the violation of any law regulating the act of soliciting as defined in this chapter within the past five (5) years in this state or any other state or subdivision thereof or of the United States.

j. 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.

k. 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 authorizing the solicitation, as described in section 6-305(g) of this article, and a form of picture identification such as a driver's license.

6-307. STANDARDS FOR ISSUANCE.

a. The city clerk shall, except as provided by this article, issue a solicitation permit provided for by this article upon receiving a completed application form from the applicant or the applicant's representative.

b. The city clerk, or a person designated by the city clerk to review applications for solicitation permits, may defer issuance of any solicitation permit for such period of time as is reasonably necessary to verify the accuracy of information required to be provided in the application for solicitation permit.

c. The city clerk shall not issue a solicitation permit to any person who within the five (5) years preceding the date of filing of an application for solicitation permit has been convicted of a felony, 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, sexual misconduct or moral turpitude or where such conviction was for violation of this ordinance or the solicitation ordinance of any other city.

d. Any person who is aggrieved by the refusal of the city clerk to issue a solicitation permit may appeal the refusal to the governing body. On refusal, the city clerk shall notify the applicant by certified mail of the refusal to issue a solicitation permit and of the applicant's right to appeal the refusal to the governing body by requesting a hearing before the governing body not later than 30 days following receipt of the notice of refusal. The notice of refusal shall contain a statement of the facts upon which the city clerk acted in refusing to issue a permit. On receipt of a request for hearing before the governing body, the city clerk shall schedule the matter to be heard at the next regularly scheduled meeting of the governing body unless the applicant shall request that the hearing be scheduled at a later date. In no event shall such hearing be held more than 30 days following receipt of the applicant's request for hearing. At the hearing the applicant may offer evidence to supply any contention that a permit should be issued.

6-308. FEES. There shall be a permit fee per each individual solicitor, in an amount fixed administratively by the Governing Body.

6-309. CONTENTS OF PERMIT. Permits issued under the provisions of this article shall identify the name and address of the solicitor, the name and address of the company or organization for whom or which the person is soliciting, the date on which the permit expires, and 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.

6-310. 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 fourteen (14) consecutive days.

6-311. PERMITS NONTRANSFERABLE. No permit issued under the provisions of this article shall be transferable or assignable.

6-312. SUSPENSION OR REVOCATION OF PERMITS. Any determination by the city clerk that the holder of a city permit has violated any provisions of this chapter or article or of the permit issued pursuant hereto or that the holder of the permit has made representations which are contrary to the facts stated in the application for the permit shall cause the city clerk to give notice to the permit holder that the permit is immediately suspended. The notice of immediate suspension is to be mailed to the permit holder by certified mail and shall notify the holder that a hearing will be had before the governing body at its next regular or special meeting for the purposes of determining whether or not the permit should be revoked. The notice shall contain a statement of the facts upon which the city clerk acted in suspending the permit and at that hearing the permit holder may offer evidence to support any contention its permit should not be revoked. No solicitation shall be made during the period of suspension or revocation of a permit.

6-313. UNIFORMITY OF ADMINISTRATION OF ARTICLE. The city clerk is directed to administer this article uniformly, and the city clerk 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.

6-314. PENALTIES. Any person who violates or causes to be violated any provision of this article, or who gives false and incorrect information to the city clerk in filing statements or applications required by this article, whether such report or application is verified, shall be guilty of a municipal offense and, upon conviction thereof, shall be subject for the first offense to a fine of not less than \$100 or more than \$500 and for the second or any subsequent offense to a fine of not less than \$500 or more than \$1,000.

ARTICLE 4. ADVERTISING MATTER

6-401. DEFINITION OF ADVERTISING MATTER. "Advertising Matter" shall include any written material or other tangible material which advertises or offers products or services for sale or purchase, which advertises or advises of business locations and services, which provides information concerning products, services, or businesses, which provides information concerning any candidate for public office or any issue slated to appear on a ballot in an election, or which provides information concerning any other topic. Advertising Matter shall specifically include any tangible information distributed by any charitable organization, as defined in Section 6-302(a).

6-402. DISTRIBUTION OF ADVERTISING MATTER. In the distribution of any Advertising Matter, all persons shall comply with the following rules and regulations:

a. Placing in Vehicles or Handing to Pedestrians Along Streets or Alleys. It shall be unlawful for any person to distribute any such Advertising Matter by placing the same in or upon vehicles upon the streets or alleys of the city, or by handing or passing the same to pedestrians along the streets or alleys, provided, however, that any person located in the city, or operating in conjunction with an established business located in the city, shall have the right, to distribute Advertising Matter to pedestrians along the streets of the city, if such distribution is conducted in such a manner as not to constitute a nuisance, or to distribute lawfully as provided in section 6-

402(b) of this article.

b. Leaving in Yards, Lawns, Hallways, Etc. It shall be unlawful for any person to leave such Advertising Matter in the yards or on the lawns in the residential district.

No person, in distributing advertising matter as above provided for, shall cross the lawn or other portions of the premises of others, except upon the duly constituted sidewalks and walks leading directly to the front doors of any residence.

In case there appears posted, either upon the building or in the yard in a conspicuous place, a sign to the effect that no posters or bills shall be left at the premises, then it shall be unlawful for any person to distribute any Advertising Matter at such premises or leave any advertising matter any place upon the premises.

c. Right of Owner or Occupant to Prevent or Punish Leaving. Nothing in this section shall be construed to deprive the owner or occupant of any property of the right to employ any lawful means to prevent or punish the leaving of any advertising materials on the premises owned or occupied by him.

d. Candidates for Public Office, Religious and Charitable Organizations. All candidates for public office and all religious and charitable organizations shall comply with the provisions of this section and be subject to the penalties herein provided for the distribution of Advertising Matter.

6-403. HANDBILLS, POSTERS, ETC. No person shall paste or affix or inscribe any handbill, poster, card, device or inscription to or upon or against any fence, structure or property of any park, place, square or highway surrounding the same except in areas specifically designated for such purposes.

ARTICLE 5. RENTAL PROPERTY LICENSES

6-501. SCOPE. The provisions of this Article shall apply to all habitable buildings in the residential district, used or intended to be used as rental property for human habitation. The term "habitable building" shall be defined as set forth in Section 5-502 of this Code.

6-502. APPLICATION FOR RENTAL PROPERTY LICENSE REQUIRED. No Person shall lease or rent or offer for lease or rent any habitable building without first making application to the City for a rental property license on the terms and conditions set forth in this code. The Person making application for such a rental property license shall do so upon a form provided by the City for such purpose and shall state in the application that the habitable building for which application is sought is in compliance with the City's building and property maintenance codes, as set out in Chapter 5 of the City's Codes. No application shall be considered without payment of the fees prescribed by Section 6-504.

6-503. RENEWAL OF RENTAL PROPERTY LICENSE. Any such rental property license must be renewed on an annual basis. Application for renewal of the rental property license shall be made no more than 60 days and no less than seven days prior to the expiration of the current rental property license, if any, held by the owner of a habitable building offered for lease or rent.

6-504. LICENSE FEE AND INSPECTION FEES. The owners of habitable buildings offered for lease or rent shall pay an annual rental property license fee, for each separate habitable building, which fee shall be adopted by the governing body and on record with the city clerk.

The annual inspections described in Section 6-507 shall be at no cost to the owner. Any reinspections of units found substandard by the inspections described in Section 6-507 shall be paid by the owner of the inspected property.

The City's actual cost of inspections of residences or dwellings requested by tenants or based upon observation of the exterior thereof as described in Section 6-507 shall be paid by the owner of the inspected property. All license, inspection, abatement or other fees that remain unpaid thirty (30) days after the City has demanded the same shall act as a lien on the subject real property and be entered on the County tax roll when consistent with, and in a manner allowed by, the laws of the State of Kansas.

6-505. LICENSE REQUIRED FOR OCCUPANCY OF HABITABLE BUILDING USED FOR RENTAL PURPOSES. No habitable building used for rental purposes shall be occupied without the owner first making application to the City for the rental property license required herein and maintaining such license in force and effect. No habitable building may be occupied if the rental property license for the residential structure is revoked. The building official may declare a habitable building used for rental purposes to be uninhabitable if a valid rental property license for such structure is not in effect and, at the direction of the governing body, may commence civil actions to evict persons residing in such structures.

6-506. LICENSING STANDARDS; COMPLIANCE WITH THE CITY'S BUILDING AND PROPERTY MAINTENANCE CODES. The rental property license for a habitable building used for rental purposes may be granted, and shall remain in effect, only so long as the following conditions are met:

- a. The licensee or applicant shall have paid the required license fee;
- b. The licensee or applicant shall have paid any and all required inspection and reinspection fees;
- c. No rental dwelling or unit shall be over occupied or illegally occupied in violation of the City's Codes;
- d. The rental dwelling shall not be under a condemnation as hazardous or unfit for human habitation under this Code or a State Statute;
- e. The rental dwelling shall not have been used or converted to rooming units in violation of the Zoning Code;
- f. The owner shall not suffer or allow weeds, vegetation, junk, debris or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition; and
- g. Rental dwellings shall remain in compliance with any and all other applicable City Codes/Buildings Codes.

6-507. INSPECTION OF RENTAL UNITS. The Governing Body desires to maintain an efficient process for inspecting all rental dwellings which are required to be licensed under this

Chapter. The exteriors of rental dwellings shall be inspected annually. The interiors of rental dwellings are to be inspected at the time of vacancy caused by a tenant or tenants moving out of the rental dwelling, and the owner of such rental dwellings shall notify the City Clerk of such any vacancy to allow for interior inspection of the property. Additionally, interior inspections may be conducted at all rental dwellings which have received three or more exterior maintenance code violation complaints during any 12 month period, which have a history of non-compliance or slow compliance with code enforcement standards or which have an excessive number of Police calls for drug offenses, crimes of force, violence or disorderly conduct. Also, interior inspections of rental dwellings may be conducted at the request of the tenant or tenants occupying such rental dwelling.

In the event that the rental dwelling to be inspected is occupied, the City shall obtain the tenant's written consent prior to the Inspector's entry into or upon such dwelling; provided, however, that nothing herein contained shall be construed to prohibit an inspection of any dwelling by the Inspector or his/her designated agent when any such inspection is requested by the tenant or occupant of the dwelling or unit.

6-508. DENIAL AND REVOCATION OF RENTAL PROPERTY LICENSE. A rental property license shall not be granted and may be revoked if:

a. The owner refuses to grant to the building official or his or her agent access to the dwelling unit or premises; or

b. The building official or his or her agent finds or determines that there exists in the dwelling unit or on the premises a violation of the building or property maintenance codes, as set out in Chapter 5 of the City's Codes; provided, however, that whenever the building official or his or her agent in inspecting a rental dwelling unit finds or determines on the premises a violation of such building or property maintenance codes, the building official shall provide written notice to the owner describing each such violation, specifying a time period for correction of the violations, and informing the owner that reinspection of the dwelling unit will be performed within ten (10) days after notification from the owner that the violations of the building or property maintenance codes have been corrected or at the end of the period for correction of the violations if the owner fails to provide notification of correction of violations.

6-509. REGISTRATION OF AGENTS. If any habitable building is offered for lease by a property owner who is not a resident of Johnson County, Kansas, then the property owner must designate in writing an agent who resides in Johnson County, Kansas. The agent shall be responsible for the payment of all fees and penalties provided in this Chapter. No rental property license shall be issued or renewed for an applicant, unless such applicant designates in writing to the City the name and address of his or her agent, as required herein. Such agent shall serve as the applicant's agent for service of process and notices pursuant to this Chapter.

6-510. EXPIRATION OF RENTAL PROPERTY LICENSE. The rental property license shall remain valid from the date of issuance until the following March 31st, unless sooner revoked, and may be renewed for successive annual periods from April 1st through the following March 31st.

6-511. REVOCATION OF LICENSE. The rental property license to rent habitable buildings may be revoked by the building official if the building official determines during any inspection authorized under Chapter 5 of the City's Codes or this Chapter 6 that

there exists within the dwelling unit or on the premises violations of the building and property maintenance codes as set out in Chapter 5. The owner or resident agent shall be served personally, by certified mail, or if he or she cannot be located, by publication, of revocation of the rental property license describing the violations. Any decision of the building official may be appealed by the owner to the Governing Body by filing a notice with the city clerk within ten (10) days of the date on which the owner was served with the building official's order. If the owner does not appeal such decision to the Governing Body, the decision shall be final. In the event an appeal is filed, the Governing Body shall conduct a hearing on the decision of the building official to revoke the license and shall either affirm or deny such decision. The decision of the Governing Body shall be final.

6-512. SUSPENDED RENTAL PROPERTY LICENSE. A rental property license may be suspended by the building official for a period of up to 60 days if an inspection discloses violations of the building or property maintenance codes set out in Chapter 5 of the City's Codes. The rental property license shall be reinstated without cost to the owner if the violations have been corrected within the time period prescribed by the building official. If the violations have not been corrected within the prescribed time period, the building official shall revoke the license in the manner described above.

6-513. LICENSE NON-TRANSFERABLE. A license issued hereunder is non-transferable. A new license application shall be required for each change of ownership of a rental dwelling.

6-514. REQUEST FOR INSPECTION BY TENANT OR OCCUPANT. Nothing herein shall be construed to prohibit an inspection by the building official or his or her agent of any dwelling unit when requested by the tenant or occupant of the dwelling unit.

6-515. RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY.

a. Any authorized officer or agent of the City, pursuant to this Chapter, shall be allowed to enter onto any land within the city limits to investigate violations of this Article and Chapter, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, and the officer or agent shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

b. It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this section.

c. Any person who interferes with an officer or agent of the City pursuant to this article shall be punished as provided in Article 7 of this Chapter.

6-516. FAILURE TO OBTAIN A RENTAL PROPERTY LICENSE; FAILURE TO MAINTAIN A CURRENT VALID RENTAL PROPERTY LICENSE; OCCUPYING A HABITABLE BUILDING OFFERED FOR RENTAL PURPOSES FOR WHICH A VALID RENTAL PROPERTY LICENSE IS NOT IN EFFECT; PENALTIES. It shall be unlawful for any owner to rent or lease a habitable building for human habitation without obtaining and maintaining in force and effect a current valid rental property license for such structure. It shall be unlawful for a tenant or person in possession to occupy a leased or rental habitable building for which the owner does not hold a current valid rental property

license. Persons who are in violation of this section shall be punished by a fine of up to \$500 or by a jail term not to exceed five (5) days, or both. Each day that a violation continues shall constitute a separate offense.

ARTICLE 6. HOME OCCUPATIONS AND LICENSES

6-601. DEFINITIONS. A home occupation is an accessory use of a dwelling or residence by the occupants thereof for business purposes. "Business purposes" shall include any activity customarily carried on for profit and that is clearly incidental and secondary to the use of the dwelling for residential purposes.

6-602. PERMITTED CONDITIONS. Home occupations are permitted as an accessory use of a dwelling only when there is compliance with all of the following conditions:

- a. Home occupations shall be carried on only by members of the immediate family residing in the dwelling unit;
- b. No external alterations, additions or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation such that the structure loses its residential character or detracts from the residential character of the neighborhood;
- c. The home occupation shall be conducted entirely within the main dwelling structure, and no such home occupation shall be conducted in an accessory building, garage or other structure whether attached or detached;
- d. The floor area devoted to a home occupation shall not be more than 33 1/3% of the ground area of the principal structure or 400 square feet, whichever is less.
- e. No repetitive servicing by trucks for supplies and material shall be required;
- f. There shall be no storage in the dwelling or anywhere upon the premises or property of any toxic materials or toxic chemicals for resale or use in the home occupation, other than as allowed under applicable environmental regulations;
- g. The entrance to the space devoted to a home occupation shall be from within the dwelling;
- h. No commercial exchange of tangible goods or other items constituting a sale between the person or persons conducting the home occupation and the members of the general public shall be permitted on the premises of the home occupation;
- i. No sign or signs shall be permitted, and there shall not be displayed or created outside the building, or displayed by means of windows or openings in the structure, any external evidence of the operation of the home occupation;
- j. No home occupation shall be permitted which generates, results in or contributes to traffic (vehicular or pedestrian), parking, sewage or water use in excess of what is usual and normal in the residential neighborhood;

k. No home occupation shall be permitted which creates or has the potential to create a hazard or danger to the health, care, safety or welfare of any person or property including any person at, in or occupying the dwelling or any property, real or personal, at the dwelling;

l. No home occupation shall be permitted which results in or contributes to electrical disturbance or interference of any sorts;

m. No home occupation shall be permitted which is, may be or has the potential to become a nuisance, public or private;

n. No home occupation shall be permitted if such occupation is subject to any other law of the City, of Johnson County, Kansas, of the State of Kansas or of the United States which requires persons conducting an occupation first to obtain approval from such governmental authorities before commencing such occupation and maintaining approval while the occupation is conducted and such approval has not been obtained or maintained; and

o. No home occupation shall be permitted which may be unlawful under the laws of this City, of Johnson County, Kansas, of the State of Kansas or of the United States or under any other rules or regulations of the City, county, state or United States.

6-603. PERMITTED OCCUPATIONS. The following are permitted home occupations as intended by this Article and Chapter, provided they do not violate any of the provisions of Section 6-602:

- a. Dressmaker, seamstress, tailor;
- b. Teacher - tutor with no more than three (3) students taught at any one time;
- c. Artist;
- d. Author;
- e. The emergency or occasional treatment only of patients by a physician, dentist, osteopath, psychologist, psychiatrist or chiropractor;
- f. Emergency or occasional interview only of clients by lawyers, engineers, accountants, architects, real estate agents and insurance agents;
- g. Babysitting no more than three (3) children at any one time;
- h. Typist or telephone answering service; and
- i. Minister.

6-604. PROHIBITED OCCUPATIONS. The following are prohibited as home occupations:

- a. Dance studios;
- b. Veterinary clinics, animal hospitals, stables, and kennels;
- c. Funeral homes and mortuaries;
- d. Nursery schools;
- e. Private clubs;
- f. Appliance or equipment repair shops;
- g. Bed & Breakfast or other short term lodging;
- h. Boarding house;
- i. Dry cleaning establishment; and
- j. Furniture sales and repair.

6-605. CONDITIONAL USES. Any home occupation which is neither specifically permitted by Section 6-603 nor specifically prohibited by Section 6-604 shall be considered a conditional use, and a license for such home occupation shall be granted or denied by the Governing Body of this City upon consideration of those standards contained within Section 6-602.

6-606. LICENSE REQUIRED. No person(s) shall engage in a home occupation as defined and described in Sections 6-601, 6-602, and 6-603 of this Article within the corporate limits of this City without obtaining a 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 include the following information:

- a. name, address, and age, if the applicant is under eighteen (18) years of age, of the applicant;
- b. names and dates of birth, if under eighteen (18) years of age, of the proposed participants in the home occupation for which the license is sought; and
- c. a brief description of the activity to be conducted for which the home occupation is sought.

6-607. ISSUANCE OF LICENSE. Upon receipt of an application for a home occupation license, the City Clerk may, without further consideration, issue a license only if the home occupation for which the license is sought is a home occupation permitted under Section 6-603 of this Article. The City Clerk shall submit all other applications for examination and consideration by the Governing Body of the City at a regularly scheduled meeting. Any application submitted later than ten (10) days prior to a regularly scheduled meeting of the Governing Body of the City shall be considered at the next following regularly scheduled meeting.

Any license issued pursuant to the provisions of Article 6 of this Chapter shall be issued only if the home occupation is permitted under Section 6-603 of Article 6 or if the Governing Body of the City has approved the license after considering the effect of the activity on the residents of the City and the property adjoining the applicant's dwelling, the effect of the activity upon the safety of the neighborhood and the residential character of the area, and the compliance with criteria set forth in Section 6-602 of this Article.

6-608. LICENSE FEE; NON-TRANSFERABLE. The fee for the license required pursuant to this Article shall be in such amount as set administratively by the Governing Body for each annual period the occupation is conducted. Every person commencing a home occupation shall secure a license covering the period from the date which the home occupation is to be started until the next succeeding December 31st. The fee for this initial period shall also be the annual fee as set administratively by the Governing Body. No fee refunds for home occupations ceasing during the year shall be made. There shall be no transfers of home occupation licenses from one person to another.

6-609. GARAGE SALES. The conducting of only one (1) or two (2) garage or yard sales during any one calendar year from the same residential location shall not be deemed to be a home occupation subject to this Article.

ARTICLE 7. PENALTY

6-701. PENALTY. Any person who shall violate any provision of this chapter or shall fail to comply with any of the requirements thereof shall be guilty of an ordinance violation and shall be punished by a fine in an amount not to exceed \$500 or by imprisonment for not more than 30 days or by both such fine and imprisonment. Each day that a violation continues shall be deemed to be a separate offense.