

# Licensing and Business Regulations

## PART 9

### LICENSING AND BUSINESS REGULATIONS

#### CHAPTER 1

##### SOLICITORS

Section 9-101	Definitions
Section 9-102	Issuance
Section 9-103	License Required
Section 9-104	Application Required
Section 9-105	Display of License
Section 9-106	Prohibited Acts
Section 9-107	License Record
Section 9-108	License Period and Fee Schedule
Section 9-109	Transfer of License Prohibited
Section 9-110	Replacement of Lost License
Section 9-111	Grounds for Denial or Revocation of License
Section 9-112	Process of Revocation or Denial of License and Appeal
Section 9-113	Penalty

#### CHAPTER 2

##### ITINERANT VENDORS

Section 9-201	Definitions
Section 9-202	License Required
Section 9-203	Application
Section 9-204	Exemption
Section 9-205	License Fee
Section 9-206	Transfer

#### CHAPTER 3

##### MOBILE FOOD VENDORS

Section 9-301	Definitions
Section 9-302	Issuance
Section 9-303	License and Approval from Property Owner and Board of Adjustment Required
Section 9-304	Application Required
Section 9-305	Display of License
Section 9-306	License Record
Section 9-307	License Period and Fee Schedule
Section 9-308	Transfer of License Prohibited
Section 9-309	Replacement of Lost License
Section 9-310	Grounds for Denial or Revocation of License
Section 9-311	Process of Revocation or Denial of License and Appeal
Section 9-312	Penalty

Licensing and Business Regulations

**CHAPTER 4**

**USED MOTOR VEHICLE DEALERS  
AND AUTOMOTIVE DISMANTLERS  
AND PARTS RECYCLERS**

Section 9-401 Used Motor Vehicle Dealers and Automotive Dismantlers and Parts Recyclers

**CHAPTER 5**

**LICENSE FOR THE SALE AND SERVING OF ALCOHOL AND 3.2 BEER**

Section 9-501 License Required  
Section 9-502 License Application  
Section 9-503 License Issuance  
Section 9-504 License Fee Schedule  
Section 9-505 Suspension or Revocation of License  
Section 9-506 Transfer of License Prohibited  
Section 9-507 Acknowledgement of Compliance Checks  
Section 9-508 Sale, Barter, or Gift  
Section 9-509 Misrepresentation of Age  
Section 9-510 Penalties

# Licensing and Business Regulations

## CHAPTER 1

### SOLICITORS

Section 9-101	Definitions
Section 9-102	Issuance
Section 9-103	License Required
Section 9-104	Application Required
Section 9-105	Display of License
Section 9-106	Prohibited Acts
Section 9-107	License Record
Section 9-108	License Period and Fee Schedule
Section 9-109	Transfer of License Prohibited
Section 9-110	Replacement of Lost License
Section 9-111	Grounds for Denial or Revocation of License
Section 9-112	Process of Revocation or Denial of License and Appeal
Section 9-113	Penalty

#### **SECTION 9-101 DEFINITIONS**

The listed terms and phrases, as used in this section, shall be defined as follows:

1. License: The written authority of the City, issued by its duly authorized agent, employee or officer, conferring permission on some person to pursue and exercise a trade, occupation, or business for a definite period of time within the limits of the City, under the conditions prescribed by ordinance.
2. Solicit: Includes any one or more of the following
  - a. Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services of any kind character or description;
  - b. Requesting directly or indirectly contributions of funds on the plea or representation that such contributions will be used for a charitable purpose
  - c. Canvassing or peddling as defined in this section.
3. Solicitor: Any person who solicits for himself or any other person.
4. Canvass: Opinion sampling, poll-taking, proselytizing, or other similar activity from house to house, door to door, street to street, or from place to place.
5. Canvasser: Any person who engages in canvassing in person for himself or any other person.
6. Peddle: To travel from house to house, door to door, street to street, or place to place, carrying, conveying, or transporting goods, wares, or merchandise for the purpose of offering and exposing the same for sale.
7. Peddler: Any person who peddles for himself or any other person.

State Law Reference: Municipal powers to levy occupational license taxes, 11 O.S. Sections 22-106, 22-107.

## Licensing and Business Regulations

### **SECTION 9-102 ISSUANCE**

A. The issuance of all licenses, collection of all license fees, inspection of all licenses, and the enforcement of license conditions and revocation of licenses, shall be under the jurisdiction of the City Clerk, except where such duties are placed elsewhere by the ordinance prescribing the particular license.

B. No license for soliciting shall be issued until a satisfactory application has been submitted and approved, the required license fee has been paid to the City Clerk and all other conditions and requirements under this section have been satisfied

### **SECTION 9-103 LICENSE REQUIRED**

It is unlawful for any person, firm or corporation, either as principal, officer, agent, servant or employee, to engage in any of the callings, trades, professions or occupations for which a license is required in this section, including soliciting, without first paying to the City Clerk the required fee and procuring a license as required by this section from the City Clerk.

### **SECTION 9-104 APPLICATION REQUIRED**

Applicants for a Solicitor's license must complete and submit an application provided by the City Clerk which shall include no less than the following information and attachments:

1. Name and current address of the individual, business, or organization, to include phone and email contact information;
2. Details of solicitation, to include beginning and end date and description of goods or services to be sold;
3. Detailed personal information and physical description of solicitor(s);
4. Current, valid driver's license or state issued identification card of solicitor;
5. Vehicle information relating to vehicles used in the solicitation, to include make, model, year, tag number and a copy of vehicle's current insurance verification;;
6. A statement as to whether or not the applicant has been convicted of a felony or misdemeanor involving moral turpitude within the past seven (7) years;
7. Valid and current state sales tax permit information, unless the applicant can prove to the City Clerk's satisfaction that such permit is not mandated under the definition of the State Tax Code.

### **SECTION 9-105 DISPLAY OF LICENSE**

All persons issued a license under this section shall carry the license with them at all times while engaging in soliciting, canvassing or peddling as those terms are defined in this section. A Solicitor shall produce the license for inspection and review upon request by any City official, law enforcement officer or any other person to whom the license holder is attempting to solicit, canvass or peddle.

### **SECTION 9-106 PROHIBITED ACTS**

The following acts are prohibited and may result in the revocation of any person's license:

## Licensing and Business Regulations

1. It shall be unlawful for an Solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at a residence or dwelling upon which a sign stating "No Solicitors," "No Trespassers," or words of similar import indicating such persons are not wanted on the premises, is painted, affixed or otherwise plainly displayed to public view either on or near the primary entrance of the residence. This paragraph shall not apply to any Solicitor who gains admittance to a residence either by invitation or consent of the residence's occupant.

2. It shall be unlawful for any Solicitor to solicit between the hours of dusk and 9:00 a.m.

### **SECTION 9-107 LICENSE RECORD**

The City Clerk shall maintain a record of all Solicitor licenses issued under this section showing the date of the issuance, the person to whom the license was issued and the time period covered by the license.

### **SECTION 9-108 LICENSE PERIOD AND FEE SCHEDULE**

A. The license fee which shall be charged by the City Clerk for a Solicitor license shall be determined under the following schedule:

1. Daily Solicitor License – Ten Dollars (\$10.00) per day;
2. Weekly Solicitor License - Twenty Dollars (\$20.00) per week;
3. Six Month Solicitor License - Seventy Five Dollars (\$75.00) for each six (6) month period.

B. No license fee shall be charged to a nonprofit organization. A nonprofit organization is defined as any organization or corporation organized not for profit but for the promotion of the welfare or education of others and which is exempt from federal and/or state income tax by virtue of its nonprofit status. A registration form shall be completed and submitted whenever members or representatives of a nonprofit will be soliciting, canvassing or peddling within the City.

### **SECTION 9-109 TRANSFER OF LICENSE PROHIBITED**

No Solicitor license may be sold or otherwise transferred. Each license is issued on consideration of the fitness of an applicant to hold that license and shall not be transferred.

### **SECTION 9-110 REPLACEMENT OF LOST LICENSE**

Whenever an original license has been lost or destroyed, the City Clerk shall issue a duplicate license. A fee of Five Dollars (\$5.00) shall be made and collected for each duplicate license.

### **SECTION 9-111 GROUNDS FOR DENIAL OR REVOCATION OF LICENSE**

Licenses issued under the provisions of this section may be denied or revoked by the City Clerk for any of the following reasons:

1. Fraud, misrepresentation, or false statement contained in application for license;

## Licensing and Business Regulations

2. Fraud, misrepresentation, or false statement made in the course of carrying on the business as a solicitor, exhibitor, or as a canvasser;
3. Conviction of any felony or misdemeanor involving moral turpitude within the past seven (7) years;
4. Conducting the business of soliciting 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 public.

### **SECTION 9-112 PROCESS OF REVOCATION OR DENIAL OF LICENSE AND APPEAL**

All licenses issued by the City shall be subject to revocation by the City Clerk upon any breach of any condition prescribed by ordinance for the regulation of such licensed occupation or in the event such licensee operates such licensed occupation or business in violation of the laws of the City or the state, or in violation of any law or regulation of the United States Government. The City Clerk's office shall give notice either in person, by telephone or mail to the licensee of the denial or revocation of their license. If mailed, the notice shall be sent to the address listed on the application or license. The license shall stand revoked or denied from the time notice is made to the licensee either in person or by telephone or is received by mail by the licensee. Any licensee may appeal a denial or revocation to the City Manager within ten (10) days after delivery or receipt of the notice by filing a written request with the City Clerk for a hearing. The hearing shall be held by the City Manager. The appealing licensee may be represented by counsel. The hearing shall be conducted in an informal manner, but no license shall be revoked or denied except upon a preponderance of the evidence. The City Manager may affirm, modify or vacate the order of revocation or denial, and his decision shall be final.

### **SECTION 9-113 PENALTY**

Any person who engages in soliciting, canvassing or peddling without a valid license or permit as required, or who violates any provision of this section, is guilty of an offense, and upon conviction shall be fined, including costs. Every day upon which a violation continues shall be deemed a separate offense.

(Ord. 360, 12/2/86; 388, 5/17/88; 463, 6/15/93; 990 6/21/11)

# Licensing and Business Regulations

## CHAPTER 2

### ITINERANT VENDORS

Section 9-201	Definitions
Section 9-202	License Required
Section 9-203	Application
Section 9-204	Exemption
Section 9-205	License Fee
Section 9-206	Transfer

#### **SECTION 9-201 DEFINITIONS**

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Itinerant vendor" means and includes all persons, firms or corporations, as well as their agents and employees who engage in the temporary or transient business in the city of selling or offering for sale any goods or merchandise, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof and who for the purpose of carrying on such business or conducting such exhibits thereof either hire, rent, lease or occupy any room or space in any building, structure, other enclosure, vacant lot or any other property whatever in the city in, through, or from which any goods or merchandise may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof;

2. "Temporary" as used in Paragraph 1 hereof means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one hundred (100) days, in or upon which such business is to be operated or conducted; and

3. "Transient" as used in Paragraph 1 as used hereof means any such business of any such itinerant vendor as may be operated or conducted by persons, firms or corporations, or by their agents or employees who reside away from the city or who have fixed places of business in places other than the city or who move stocks of goods or merchandise or samples thereof into the city with the purpose or intention of removing them, or the unsold portion thereof, away from the city before the expiration of one hundred (100) days.

The term "itinerant vendor" shall not include or be construed to include anyone engaged in interstate commerce nor anyone upon which the provisions of this chapter would impose a direct and unlawful burden on interstate commerce. (Prior Code, Sec. 5-24)

#### **SECTION 9-202 LICENSE REQUIRED**

It is unlawful for any itinerant vendor to sell, offer for sale, exhibit for sale, or exhibit for the purpose of taking orders for the sale thereof, any goods or merchandise in the city without first obtaining a license as herein provided for. The city clerk shall issue to any itinerant vendor a license authorizing such itinerant vendor to sell, exhibit for sale, offer for sale, or exhibit for the purpose of taking orders for the sale thereof in the city his goods or merchandise only after such itinerant vendor shall have fully complied with all provisions of this chapter and shall have paid the license fees hereinafter provided, which sum shall be compensation to the city for the services herein required of it and to enable the city to partially defray the expenses of enforcing the provisions of this chapter. (Prior Code, Sec. 5-25)

## Licensing and Business Regulations

### **SECTION 9-203 APPLICATION**

The itinerant vendor shall make application to the city clerk of the city at least ten (10) days prior to the date of his contemplated sale or exhibit to be held in the city which application shall be in the form of an affidavit, stating the full name and address of the itinerant vendor, the location of his or its principal office and place of business, the names and addresses of its officers if it be a corporation, and the partnership name and the names and addresses of all partners if such itinerant vendor be a firm. The application thereof must be accompanied by:

1. A statement showing the kind and character of goods to be sold, or merchandise to be sold, offered for sale or exhibited;
2. A certified copy of the charter if the itinerant vendor be a corporation, incorporated under the laws of this state;
3. A certified copy of its permit or authority to do business in the state if the itinerant vendor be a corporation, incorporated under the laws of some state other than Oklahoma; and
4. A bond in the sum of not less than Five Hundred Dollars (\$500.00), executed by the itinerant vendor as principal, with some surety company authorized to do business in the state as surety, which bond shall be payable to the city for the use and benefit of any person or persons entitled thereto and conditioned that the principal and surety will pay all damages to person, or persons, caused by or arising from, or growing out of the wrongful or illegal conduct of the itinerant vendor while conducting the sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the license permit as provided herein, and two (2) years thereafter.

### **SECTION 9-204 EXEMPTION**

This chapter is not and shall not be held to be applicable to the:

1. Ordinary commercial traveler who sells or exhibits for sale goods or merchandise to parties engaged in business of buying and selling and dealing in goods or merchandise;
2. Vendors of farm produce, poultry, stock, or agricultural products in their natural state; and
3. Sales of goods or merchandise donated by the owners thereof, the proceeds whereof to be applied to any charitable or philanthropic purpose.

### **SECTION 9-205 LICENSE FEE**

The license fee for itinerant vendor shall be Fifty Dollars (\$50.00) and shall be for a period of not to exceed six (6) business days, or any fraction thereof. Upon the completion of the six (6) business days, the license fee thereafter shall be at the rate of One Dollar (\$1.00) per day, or any fraction thereof.

### **SECTION 9-206 TRANSFER**

The license permit provided for herein shall not be transferable nor give authority to more than one person to conduct a business as an itinerant vendor, but any persons having obtained such license may have the assistance of one or more persons in conducting the business.

# Licensing and Business Regulations

## CHAPTER 3

### MOBILE FOOD VENDORS

Section 9-301	Definitions
Section 9-302	Issuance
Section 9-303	License and Approval from Property Owner and Board of Adjustment Required
Section 9-304	Application Required
Section 9-305	Display of License
Section 9-306	License Record
Section 9-307	License Period and Fee Schedule
Section 9-308	Transfer of License Prohibited
Section 9-309	Replacement of Lost License
Section 9-310	Grounds for Denial or Revocation of License
Section 9-311	Process of Revocation or Denial of License and Appeal
Section 9-312	Penalty

#### **SECTION 9-301 DEFINITIONS**

The listed terms and phrases, as used in this section, shall be defined as follows:

1. License: The written authority of the City, issued by its duly authorized agent, employee or officer, conferring permission on some person to pursue and exercise a trade, occupation, or business for a definite period of time within the limits of the City, under the conditions prescribed by ordinance.
2. Full-service mobile food vendor: A vehicle or trailer designed and equipped to prepare and serve open food products.
3. Pre-packaged mobile food vendor: A vehicle or trailer limited to the sale of commercially manufactured pre-packaged products or products that are prepared and packaged at a licensed food service establishment.
4. Pushcart mobile food vendor: A non-self-propelled vehicle, the operation of which is limited to serving non-potentially hazardous foods.
4. Stationary food vendor: A food vendor serving from a temporary structure that is stationary in one location.

#### **SECTION 9-302 ISSUANCE**

A. The issuance of all licenses, collection of all license fees, inspection of all licenses, and the enforcement of license conditions and revocation of licenses, shall be under the jurisdiction of the City Clerk, except where such duties are placed elsewhere by the ordinance prescribing the particular license.

B. No license for mobile food vending shall be issued until a satisfactory application has been submitted and approved, the required license fee has been paid to the City Clerk and all other conditions and requirements under this section have been satisfied

#### **SECTION 9-303 LICENSE AND APPROVAL FROM PROPERTY OWNER AND BOARD OF ADJUSTMENT REQUIRED**

A. It is unlawful for any person, firm or corporation, either as principal, officer, agent, servant or employee, to engage in any of the callings, trades, professions or occupations for which a license is required in this section, including full-service mobile food vending, pre-packaged

## Licensing and Business Regulations

mobile food vending, pushcart food vending and stationary food vending, without first paying to the City Clerk the required fee and procuring a license as required by this section from the City Clerk.

B. It shall be unlawful for any mobile food vendor to locate their vehicle or equipment upon, or otherwise sell their products from, any property without obtaining permission from the owner of that property. It shall be necessary for a mobile food vendor applicant to submit with their application a copy of a contract, lease, agreement or letter authorizing the vendor's use of the property from the owner of any property where a mobile food vendor intends to locate their vehicle or equipment or otherwise sell their product.

C. No mobile food vendor shall park their vehicle or equipment on any City street while selling, or offering to sell, any product.

D. In addition to the license required under this section, all stationary food vendors shall additionally obtain a permit from the Board of Adjustment for the City of Owasso and shall at all times remain in compliance with all policies, procedures, rules and requirements of the Board of Adjustment.

### **SECTION 9-304 APPLICATION REQUIRED**

Applicants for any mobile food vending license must complete and submit an application provided by the City Clerk which shall include no less than the following information and attachments:

1. Name and current address of the individual, business, or organization, to include phone and email contact information;
2. Detailed personal information and physical description of vendor(s);
3. Valid and current driver's license or state issued identification card of vendor;
4. Vehicle information relating to vehicles used in the vending, to include make, model, year, tag number and a copy of the vehicle's current insurance verification
5. Valid and current state sales tax permit information, unless the applicant can prove to the City Clerk's satisfaction that such permit is not mandated under the definition of the State Tax Code.
6. Valid and current county and state health department licensing information.
7. Copy of the contract, lease, agreement or letter from owner of property authorizing mobile food vendor to locate its vehicle or equipment or otherwise sell its product on the owner's property.

### **SECTION 9-305 DISPLAY OF LICENSE**

All mobile food vendors issued a license under this section shall plainly display the license on the mobile food vending vehicle or equipment where it may be readily seen by any City official, law enforcement officer or other regulatory official, and by any person or customer approaching the vendor's vehicle or mobile food vending equipment.

### **SECTION 9-306 LICENSE RECORD**

The City Clerk shall maintain a record of all mobile food vending licenses issued under this section showing the date of the issuance, the person to whom the license was issued, the time period covered by the license and the nature of the license.

**SECTION 9-307 LICENSE PERIOD AND FEE SCHEDULE**

The initial fee and annual renewal fee charged by the City Clerk for a mobile food vending license shall be determined under the following fee schedule:

1. Full-service Mobile Food Vendors: One Hundred Fifty Dollars (\$150.00) per vehicle, per year;
2. Pre-packaged Mobile Food Vendors: Fifty Dollars (\$50.00) per vehicle, per year;
3. Pushcart Mobile Food Vendors: Fifty Dollars (\$50.00) per pushcart, per year;
4. Stationary Food Vendors: Fifty Dollars (\$50.00) per vehicle or cart, per year.

**SECTION 9-308 TRANSFER OF LICENSE PROHIBITED**

No mobile food vending license may be sold or otherwise transferred. Each license is issued on consideration of the fitness of an applicant to hold that license and shall not be transferred.

**SECTION 9-309 REPLACEMENT OF LOST LICENSE**

Whenever an original license has been lost or destroyed, the City Clerk shall issue a duplicate license. A fee of Five Dollars (\$5.00) shall be made and collected for each duplicate license.

**SECTION 9-310 GROUNDS FOR DENIAL OR REVOCATION OF LICENSE**

Applications and licenses for mobile food vending under the provisions of this section may be denied or revoked by the City Clerk for any of the following reasons:

1. Fraud, misrepresentation, or false statement contained in application for license;
2. Fraud, misrepresentation, or false statement made in the course of carrying on the business as a vendor;
3. Conducting the business of mobile food vending in an unlawful manner, or in such a manner as to constitute a breach of the peace, or to constitute a menace, danger or hazard to the health, safety, or general welfare of the public.
4. Revocation, suspension or failure to renew necessary state and county health department licenses.
5. Conviction of any felony or misdemeanor involving moral turpitude within the past seven (7) years.

**SECTION 9-311 PROCESS OF REVOCATION OR DENIAL OF LICENSE AND APPEAL**

All licenses issued by the City shall be subject to revocation by the City Clerk upon any breach of any condition prescribed by ordinance for the regulation of such licensed occupation or in the event such licensee operates such licensed occupation or business in violation of the laws of the city or the state, or in violation of any law or regulation of the United States Government. The City Clerk's office shall either give written notice by personal service or by mail to the licensee of the denial or revocation of the license. The notice, if mailed, shall be mailed to the address listed on the application or license. The license shall stand revoked or denied from the date the notice is delivered by personal service or received by the licensee by mail. A licensee may appeal a denial or revocation to the City Manager within ten (10) days of receipt of the notice by filing a written request with the City Clerk for a hearing. The hearing shall be conducted by the City Manager. The appealing licensee may be represented by counsel. The hearing shall be conducted in an informal manner, but no license shall be revoked or denied except upon a

## Licensing and Business Regulations

preponderance of the evidence. The City Manager may affirm, modify or vacate the order of revocation or suspension, and his decision shall be final.

### **SECTION 9-312 PENALTY**

Any person who engages in mobile food vending without a valid license or permit as required, or who violates any provision of this section, is guilty of an offense and upon conviction shall be fined, including costs. Each day upon which a violation continues to occur shall be deemed a separate offense.

(Ord. No. 990, 6/21/11)

Licensing and Business Regulations

CHAPTER 4

USED MOTOR VEHICLE DEALERS  
AND AUTOMOTIVE DISMANTLERS AND PARTS RECYCLERS

Section 9-401 Used Motor Vehicle Dealers and Automotive Dismantlers and Parts  
Recyclers

**SECTION 9-401 USED MOTOR VEHICLE DEALERS AND AUTOMOTIVE DISMANTLERS AND PARTS  
RECYCLERS**

A. It shall be unlawful for any person, firm, association, corporation or trust to sell, offer for sale, or display for sale one (1) or more used motor vehicles within the city without first obtaining a license therefore from the appropriate state authorities as set forth in 47 O.S., Section 581, et seq., or amendments thereto. It shall be unlawful for any owner of real property, lessee of real property, or person having an interest in real property to allow the sale, or display for sale, of one (1) or more used motor vehicles within the city unless said property is zoned for such use. Provided that this section shall not apply to any person making such use of their own personal residence, and involving a vehicle licensed in their own name as owner.

B. It shall be unlawful for any person, firm association, corporation or trust to fail to show a valid state license under Title 47, upon the request of any properly identified officer or employee of the city.

C. It shall be unlawful for any person, firm, association, corporation or trust to violate any of the provisions of the Automotive Dismantlers and Parts Recycler Act, also known as 47 O.S., Section 591.1 et seq., within the city limits of Owasso, Oklahoma.

D. Each day during which any of the above business operations are conducted in violation of this section shall be considered a separate offense; each successfully consummated transaction during which the provisions of this section are violated shall constitute a separate offense.

E. Members of the police department or code enforcement officers are hereby authorized to remove a vehicle from any property to a garage or other place of safety when such vehicle has been parked on more than one occasion for the principle purpose of displaying such vehicle for sale in violation of this chapter of the Owasso Code or the Owasso Zoning Code. City personnel shall be required to show that an official notice, warning, citation, or warrant has been issued by the City of Owasso for the vehicle involved prior to the incident for which the vehicle is to be towed.

F. The prohibition contained in Subsection A shall not apply to mortgagees or secured parties who are selling motor vehicles which were collateral on a mortgage or security agreement if: (1) such mortgagees or secured parties do not realize for their own account from such sales any monies in excess of the outstanding balance secured by such mortgage or security agreement, plus costs of collection; and (2) the sale is conducted as a lawful secondary use on such mortgagees' or secured parties' primary business property.

This article shall apply to and govern licenses required by this Code or other ordinances of the city; provided, however, if any provision of this article conflicts with a provision of this Code or other ordinance of the city relating to a license for a specific business, profession, occupation, trade, privilege or other activity, such latter provision shall govern and control.

(Ord. No. 626, 12/21/99)

# Licensing and Business Regulations

## CHAPTER 5

### LICENSE FOR THE SALE AND SERVING OF ALCOHOL AND 3.2 BEER

Section 9-501	License Required
Section 9-502	License Application
Section 9-503	License Issuance
Section 9-504	License Fee Schedule
Section 9-505	Suspension or Revocation of License
Section 9-506	Transfer of License Prohibited
Section 9-507	Acknowledgement of Compliance Checks
Section 9-508	Sale, Barter, or Gift
Section 9-509	Misrepresentation of Age
Section 9-510	Penalties

#### **SECTION 9-501 LICENSE REQUIRED**

It is unlawful for any person, firm or corporation, either as principal, officer, agent, servant or employee, to engage in the selling or serving of alcohol and/or 3.2 beer without first paying to the city the fee or tax required and procuring from the city a license.

#### **SECTION 9-502 APPLICATION REQUIRED**

A. It shall be unlawful for any business, vendor or person within the City of Owasso to serve, sell or offer for sale alcohol and/or 3.2 beer without a license issued by the City of Owasso as hereinafter provided. Every vendor desiring to engage in business as a retail vendor serving or selling alcohol or 3.2 beer within the City of Owasso shall make application to the City Clerk on forms available in the Office of the City Clerk. A license shall be issued to each vendor whose application is approved.

B. Application for a license to sell or serve alcohol or beer by a vendor located within the City of Owasso shall be made by completing and submitting the application form to the City Clerk. The form shall include the vendor's business name, the owner's name and address if the business is a sole proprietorship, the name of the president and all other officers and directors if the business is a corporation, and the names of all partners or members if the vendor is a partnership or a limited liability company. The application form shall also require the vendor to submit information verifying that the vendor has obtained the necessary permits required by state law from the District Court in the county where the vendor is located and the Oklahoma Tax Commission. The application form shall also require information regarding the number of each permit and the date each permit was granted to the vendor. It shall be unlawful for any person to make any false statement on the application form. Knowingly or intentionally submitting an application containing false information shall be unlawful and shall serve as grounds for denial, suspension, or revocation of a vendor's license issued by the City of Owasso.

#### **SECTION 9-503 LICENSE ISSUANCE**

A license under this section shall be issued to a vendor when the applicant has completed each of the following requirements:

1. Obtained a county permit from the District Court Clerk and satisfied other applicable requirements under State law.
2. Satisfactorily submitted the application required under this section to the City Clerk.
3. Paid the required license fee as set forth in Section 9-504 of this section.

## Licensing and Business Regulations

All licenses shall be issued for one (1) calendar year from January 1<sup>st</sup> to December 31<sup>st</sup>. The fee for any license issued after the effective date of this ordinance, and for a period of less than one (1) calendar year, shall be prorated accordingly. Payment of annual license fees must be made within thirty (30) days from the date the license expires. Any vendor failing to pay the annual fee within thirty (30) days from the date the license expires, or within (30) days from the date the vendor begins selling or serving alcohol or 3.2 beer if a new application, shall be subject to the penalties set forth in Section 9-410(2) of this Chapter.

### **SECTION 9-504 LICENSE FEE SCHEDULE**

The following fees shall be assessed to vendors wishing to engage in the serving or selling of alcohol or 3.2 beer:

1. ALCOHOL OR BEER NOT TO BE CONSUMED ON THE VENDOR'S PREMISES. An annual fee of Ten Dollars (\$10.00) shall be paid by a vendor to the City of Owasso if the vendor intends to sell alcohol and/or 3.2 beer which is not intended to be consumed on the vendor's premises. This fee shall be paid when the vendor's application for a license is submitted to the City Clerk. Licenses under this section shall be granted for a calendar year from January 1<sup>st</sup> through December 31<sup>st</sup>. The license fee for an initial license shall be prorated if such license is granted for less than a full calendar year. The fee for annual license renewals shall not be prorated.

2. ALCOHOL OR BEER WHICH IS INTENDED TO BE CONSUMED ON THE VENDOR'S PREMISES. An annual license fee of Twenty Dollars (\$20.00) shall be paid by a vendor to the City of Owasso if the vendor intends to sell or serve alcohol and/or 3.2 beer which is intended to be consumed on the vendor's premises. This fee shall be paid when the vendor's application for a license is submitted to the City Clerk. Licenses under this section shall be granted for a calendar year from January 1<sup>st</sup> through December 31<sup>st</sup>. The license fee for an initial license shall be prorated if granted for a period of time less than a full calendar year. The fee for annual license renewals shall not be prorated regardless of when the application for annual renewal is filed.

### **SECTION 9-505 SUSPENSION OR REVOCATION OF LICENSE**

The license granted by the City of Owasso shall at all times be displayed in public view in the vendor's place of business. This license may be suspended or revoked as provided herein if the vendor, or any person or agent employed by the vendor or acting on the vendor's behalf, is convicted of the offense of selling or serving alcohol to a minor, or enters into a plea bargain agreement after being charged with such offense. "Conviction" throughout this section shall be deemed to include entry of a guilty or nolo contender plea by any person charged with selling or serving alcohol or 3.2 beer to a minor. Each vendor making application for a license under this section shall expressly acknowledge the vendor's awareness that a license granted pursuant to this section may be suspended or revoked by the City of Owasso if an owner, officer, director, manager, employee or agent of the vendor is either convicted of selling or serving alcohol or beer to a minor on the vendor's behalf or enters into a plea bargain agreement after being charged with such offense. It shall not be a defense under this section for a vendor to assert or claim that an employee or agent of the vendor unlawfully sold or served alcohol or beer to a minor contrary to the vendor's rules, policies, procedures or training. Assertion of such a defense will not prevent the vendor's license from the penalties set for in Section 9-510 of this section.

### **SECTION 9-506 TRANSFER OF LICENSE PROHIBITED**

Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. If a business holding a license under this section is sold, a new license must be obtained by the new owner. A separate license for each location of businesses with common ownership, including all chain stores and businesses owned and operated pursuant to franchise agreements, must be

## Licensing and Business Regulations

obtained by a vendor operating more than one (1) business engaged in the business of selling or serving alcohol and/or 3.2 beer within the City of Owasso.

### **SECTION 9-507 ACKNOWLEDGEMENT OF COMPLIANCE CHECKS**

A vendor shall specifically acknowledge awareness on the license application submitted to the City of Owasso that alcohol compliance checks are performed on a regular and ongoing basis in the community by law enforcement, and shall further acknowledge the vendor's consent to such compliance checks as a necessary condition of obtaining and retaining a license from the City of Owasso under this section. The vendor shall also acknowledge on the application its awareness that conviction of the vendor's employee or agent for the offense or serving alcohol or beer to a minor, or the acceptance of a plea bargain agreement by the employee after being charged with such offense, will result in suspension or revocation of the vendor's license as provided in Section 9-510 of this section.

### **SECTION 9-508 SALE, BARTER, OR GIFT**

It shall be unlawful for any person or business licensed under this ordinance to sell, serve, barter or give to any person under the age of twenty-one (21) any beverage or other product containing alcohol or 3.2 beer. Conviction or acceptance of a plea bargain by an employee or agent of the vendor for such an offense shall subject the vendor's license to sell or serve alcohol or 3.2 beer to suspension or revocation by the City as provided in Section 9-510 of this section.

### **SECTION 9-509 MISREPRESENTATION OF AGE**

It shall be unlawful for any person to misrepresent their age to any vendor for the purpose of obtaining or facilitating the sale or serving of alcohol or 3.2 beer.

### **SECTION 9-510 PENALTIES**

#### 1. SUSPENSION OF LICENSE

a. A license granted under this section may be revoked or suspended by the City Manager, without a hearing, subsequent to conviction of the vendor, its employees or agents, for the sale of alcohol or 3.2 beer to a minor, or by the acceptance of a plea bargain for such an offense. In addition to the fines and penalties which may be imposed upon the employee or agent serving or selling alcohol or 3.2 beer to a minor, the following sanctions shall be imposed on the vendor:

i. 1<sup>st</sup> Conviction of the vendor or its employees within a twenty-four (24) month period will result in the issuance of an official written warning to the vendor that additional convictions will result in the suspension of the vendor's license.

ii. 2<sup>nd</sup> Conviction of the vendor or its employees or agents within a twenty-four (24) month period will result in suspension of the vendor's license to sell or serve alcohol and/or 3.2 beer for three (3) consecutive days.

iii. 3<sup>rd</sup> Conviction of the vendor or its employees or agents within a twenty-four (24) month period will result in suspension of the vendor's license to sell or serve alcohol and/or 3.2 beer for seven (7) consecutive days.

iv. 4<sup>th</sup> Conviction of the vendor or its employees or agents within a twenty-four (24) month period will result in suspension of the vendor's license to sell or serve alcohol and/or 3.2 beer for an additional thirty (30) day period.

v. Each additional conviction of a vendor or its employees or agents within a twenty-four month period will result in an additional suspension of the vendor's license to sell or serve alcohol and/or 3.2 beer for an additional (30) day period.

## Licensing and Business Regulations

b. The vendor shall have the right to appeal the decision of the City Manager to the City Council within five (5) business days of the City Manager's decision to revoke or suspend a vendor's license. The City Council shall hold a public hearing at a regularly scheduled City Council meeting to consider the matter, and thereafter shall affirm or reverse the decision of the City manager. If the City Council determines that suspension of the vendor's license is warranted under this section, the suspension shall begin within five (5) business days from the hearing date. During the suspension period the vendor may not sell or serve alcohol and/or 3.2 beer.

2. FAILURE TO OBTAIN A PERMIT AS REQUIRED BY THIS SECTION. Any existing vendor who fails to obtain a permit within thirty (30) days from the date this section becomes effective shall be prohibited from selling or serving alcohol and/or 3.2 beer until such time as a license is obtained by the vendor. All new businesses intending to sell or serve alcohol, for consumption either on or off the vendor's premises, shall be required to obtain a license under this section within thirty (3) days of the date the vendor begins selling or serving alcohol and 3.2 beer. A vendor who continues to sell serve alcohol and/or 3.2 beer without obtaining an initial or renewed license under this section shall receive an initial written warning and thereafter shall have three (3) business days to file an application with the City Clerk to obtain a license in compliance with this section. Subsequent to the issuance of a warning under this section, a vendor who continues to sell or serve alcohol and/or 3.2 beer after the three (3) day period without obtaining the required license shall be subject to a fine of One Hundred Dollars (\$100.00) per day for each day alcohol and/or 3.2 beer are served or sold by the vendor without a license. The City shall also be entitled to pursue injunctive relief and all other available legal remedies in the District Courts against the vendor. In addition, the City shall notify all State agencies vested with licensing, regulatory or review power, including but not limited to the ABLE Commission and the Oklahoma Tax Commission, of the vendor's failure to obtain a permit as required by the City of Owasso Code of Ordinances.

3. VENDOR SERVING OR SELLING ALCOHOL OR 3.2 BEER WHILE UNDER SUSPENSION. Any vendor who fails to adhere to the conditions of a suspension imposed by the City Manager or the City Council and continues to serve or sell alcohol and/or 3.2 beer during such suspension is in violation of this section and shall be subject to a fine of Two Hundred (\$200.00) per day for each day alcohol and/or 3.2 beer are sold or served by the vendor while its license is under suspension. In addition, the City shall be entitled to pursue any legal and injunctive relief, and shall notify the relevant agencies set forth in Section Two (2) above.

(Ord No. 927, 7/15/08; 990, 6/21/11)