

PART 9 – LICENSE AND BUSINESS REGULATIONS

CHAPTER 1

OCCUPATIONAL LICENSES GENERALLY

SECTION DESCRIPTION

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SECTION 9-101 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, without first paying to the town the fee or tax required, and procuring from the town a license.

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

SECTION 9-102 ISSUANCE

All licenses shall be issued by the town clerk. No license shall be issued until all conditions prescribed by the ordinance have been complied with, and a certificate of examination or inspection filed with the town clerk, in those cases where examination or inspection is required by ordinance. Any applicant for a license shall make application upon such forms as may be prescribed by ordinance or may be prescribed by the town clerk.

SECTION 9-103 LICENSE PERIOD

All licenses shall be issued for the current fiscal year and shall expire on June 30 of the year for which they are issued, unless a different date of expiration is provided by the ordinance providing for the particular license. Taxes are due annually on July 1.

SECTION 9-104 PAYMENT OF FEES; PRO-RATION

All license fees shall be paid in advance for the license period for which issued. The license fee may be pro-rated for a new business in proportion to the amount of the year remaining during which time it will operate. However, at the direction of the town board, the town clerk may issue licenses to licensees, sending them statements for fees due, and if the same is not paid within sixty (60) days from the due date, the license shall thereupon become null and void.

SECTION 9-105 TRANSFER

No license shall be sold or otherwise transferred.

SECTION 9-106 LICENSE DISPLAY

It is the duty of any person, having obtained a license for any authorized purpose, to have the same placed or posted in a secure manner in some public place on the premises occupied and used for such business and where the license may be readily seen at any time by any person entering the place of business. Any licensee who does not occupy any certain premises for the conduct of such licensed business shall carry his license on his person and shall display the same whenever requested.

SECTION 9-107 REVOCATION OR SUSPENSION OF LICENSE, APPEAL

All licenses issued by the town shall be subject to revocation by the duly authorized officer of the town board 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 town or the state, or in violation of any law or regulation of the United States Government.

The duly authorized officer shall mean the town clerk in all instances except when some other person or board is given the authority by ordinance to revoke or suspend the particular license. The duly authorized officer shall either give written notice by personal service or by mail to the licensee, of the revocation of his license, or the suspension of the same, which notice, if mailed, shall be mailed to the address given on the application or license.

The license shall stand revoked or suspended from the time of the giving of such notice. Any licensee, however, may appeal to the town board from such decision within ten (10) days after the aforesaid notice by filing a written request with the town clerk for a hearing. The hearing shall be held by the town board at the next regular meeting following the filing of the appeal, but may be continued from day to day. The appealing licensee may be represented by counsel. The hearing shall be conducted in an informal manner, but no license shall be revoked or suspended except upon a preponderance of the evidence.

The board may affirm, modify or vacate the order of revocation or suspension, and its decision shall be final.

SECTION 9-108 EXEMPTIONS

The following shall be exempt of fees under the provisions of this chapter, but notification of city hall is required:

- A. A farmer selling in town produce actually produced by him in this county;
- B. All scientific or literary entertainers or lecturers;
- C. All concerts, musicals or other entertainment given exclusively by the citizens of the town;
- D. All entertainments, the proceeds from which are to be devoted to charity or to public uses or improvements; and
- E. Arts and crafts selling items actually produced by him or her in this county.

SECTION 9-109 LICENSE FEE SCHEDULE

A. There is hereby assessed and levied a tax or license fee, which fee shall be set by the town board by motion or resolution, upon each of the following persons engaging in any of the following occupations, trades or businesses, for which such person shall first procure a license therefor. Any person who shall engage in more than one business, trade or occupation on which any license fee is required by the town ordinances, so long as such businesses are operated under one roof and one ownership, shall pay only one license fee.

B. All businesses and occupations in the town are subject to license herein. Fees for each license are adopted by motion or resolution of the town board.

The amount of the general occupation license fee is set by the town board at **\$20.00 annually** except as otherwise established by this code or town board.

Cross Reference: See also §§ 9-201 et seq. of this code for license requirements for peddlers and solicitors. See also §§ 5-101 et seq. on license/registration requirements for plumbers, electricians. See also §§ 3-101 et seq. for license fees for alcoholic beverage establishments and nonalcoholic beverage establishments.

CHAPTER 2

ITINERANT VENDORS

SECTION DESCRIPTION

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SECTION 9-201 DEFINITIONS

For the purpose of this chapter, the following terms shall have the meaning respectively ascribed to them herein:

- A.** “Commercial” means soliciting for a business purpose which is intended to be for profit and is not intended to be charitable, religious, not for profit or political;
- B.** “Itinerant” means having no regular place of doing business or soliciting in the town and includes but is not limited to making regular delivery or providing goods over an established route through the town;

C. “Peddler” means a person soliciting commercial orders for goods or services which are to be provided from stocks or goods carried with the peddler or which are services provided by the peddler at the time the order is made;

D. “Soliciting” means all activities of peddlers, solicitors and vendors attempting to obtain business. Such activities may include, but are not limited to, distribution of handbills or leaflets to the public directly or by placing them in a mailbox, on a doorknob or otherwise on any property; coming personally onto any property for the purposes defined herein; calling the occupants of any property by telephone for the purposes herein defined; or calling or inviting any prospective customers to purchase or obtain merchandise, product or service;

E. “Solicitor” means a person soliciting commercial orders for goods or services which are to be provided or shipped to the consumer at a later date; and

F. “Vendor” means any person engaged in a business or occupation selling or offering to sell any merchandise, product or service, and includes but is not limited to peddlers and solicitors.

State Law Reference: State peddlers licenses, 47 O.S. § 434; ex-servicemen exempted if certified by district court, 72 O.S. § 1.

SECTION 9-202 LICENSE REQUIRED; BLANKET LICENSES

A. Any itinerant vendor, solicitor or peddler shall obtain a license from the town prior to any soliciting in the town, unless exempted herein, to cover each person who will be soliciting and each location or separate place of business.

B. Owners or lessees of buildings in which itinerant vendors operate or locate must obtain a blanket license covering all itinerant vendors who will be established in the building controlled by the owner or lessee. Governmental agencies owning public buildings may arrange a letter of agreement with the town in lieu of a license if licensing is contrary to the regulations governing the governmental agency. In such a case, the letter of agreement will provide for the same requirements as are shown in this chapter and will provide that the town receive half the rental fee paid by the itinerant vendor until the town’s receipts equal the amount required for a blanket license fee.

SECTION 9-203 FEE

The fee for licenses herein required shall be as set by the town board of trustees by motion or resolution. The fees may be waived for educational, charitable, religious groups, qualifying as 501(c)(3) organizations who make house-to-house solicitations.

SECTION 9-204 APPLICATION FOR LICENSE

A. Applicants for licenses shall file during regular business hours a written application signed by the applicant, if an individual, by all partners if a partnership, and by a qualified corporate officer, if a corporation, with the licensing officer, showing:

1. Name and address of person or persons having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the town; the location or address of such person or persons when engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and, if a corporation, under the laws of what state the same is incorporated;
2. The place or places in the town, within the proper zoning classification, where it is proposed to carry on the applicant's business and the length of time during which it is proposed that the business be conducted;
3. Place or places, other than permanent place of business of the applicant, within the six (6) months next preceding the date of the application, where the applicant has conducted a transient business;
4. The nature of the goods or products being sold, that is whether they are "seconds," rejects or first-line quality, and whether any warranty applies to the items being sold; if a warranty applies, the period of the warranty and the name and address of the warrantor and the procedures for filing for the adjustment or refund shall be specified;
5. A statement that the applicant agrees to the requirement to pay all state and town sales taxes due on all items which are subject to sales taxes and recognizes that a copy of all applications will be provided to the local office of the Oklahoma Tax Commission;
6. Current state sales tax permit number;
7. Current license or permit, if any, which may be required by state law or ordinances of the town for the particular activity or business;
8. If a motor vehicle is to be used in the business, a description of the vehicle together with motor vehicle registration number and the license number for the vehicle, and:
 - o Proof of liability insurance required by state law; and
 - o Proof or verification from the insurance carrier that the town clerk will be provided at least ten (10) days' notice of any cancellation; and
9. Proof of 501(c)(3) tax status if claiming exemption from the license fees.

B. Applicants for a blanket itinerant vendor license shall file during regular business hours a written application signed by the applicant, if an individual, by all partners, if a partnership, and by a corporate officer, if a corporation, with the license and permits clerk showing:

1. Name and address of person or persons having the management or supervision of the building in which itinerant vendors shall conduct business;
2. Name and address of the person or persons having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the town; the location or address of such person or persons when engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such

person or persons will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and, if a corporation, under the laws of what state the same is incorporated and licensed to operate in the state;

3. A general description of the products or services that will be sold by the itinerant vendor;
4. A statement that the applicant shall establish the following controls over itinerant vendors and shall maintain records concerning each itinerant vendor for one year after the engagement dates involving the itinerant vendors:
 - The applicant shall determine the names and addresses of each salesperson involved locally for an itinerant vendor and determine the names and permanent addresses of the parent company, if any, controlling the itinerant vendor;
 - The applicant shall determine the nature of the merchandise or product to be sold, determine whether it is a “reject” line or seconds, determine whether there are warranties of the product, and how any complaint is to be filed for warranty adjustment. The applicant shall require that the vendor display a sign prominent enough to disclose to all potential customers that the product consists of seconds, rejects or irregulars if such is the case;
 - The applicant shall inform each vendor of the requirement to pay state and town sales taxes and shall forward the name, product involved, and dates of the vendor’s engagement to the local office of the state tax commission. Further, the applicant will furnish the vendor with one copy of the state sales tax report form and require him to certify that he will submit a sales tax report at the conclusion of his engagement in the town;
 - The applicant shall post proof of liability insurance policy in effect in amount of Twenty-five Thousand Dollars (\$25,000.00);
 - The applicant shall provide copies of all ordinances, regulations, tax forms, etc., to itinerant vendors and provide the town with a statement signed by the vendor agreeing to comply with same; and
 - The applicant shall post a notice with the town thirty (30) days in advance, listing each itinerant vendor establishing a business.

SECTION 9-205 INVESTIGATION; APPROVAL OR DISAPPROVAL

A. All applications for licensing or registration shall be immediately referred for investigation as to the truth thereof, which investigation shall be conducted within ten (10) business days after the application and fee are deposited with the town.

B. If the town finds no past history of the applicant indicating violations of this code and that the application is properly made and truthful, a license shall be issued to the approved applicant upon payment of the fee therefor and the filing of the required bond.

C. In all matters of denial of the license or registration, the applicant shall be forthwith advised thereof. The applicant shall be advised that an appeal of a denied license may be submitted to the town board of trustees.

SECTION 9-206 BOND FOR LICENSE

A. Before any license as provided by this chapter shall be issued, such applicant shall file a bond running to the town. A person engaging in business as an itinerant vendor shall file a bond in the sum set forth in the bond schedule, secured by the applicant as principal and two (2) sureties upon whom service of process may be made in the state.

B. All such bonds shall be approved by the town attorney and conditioned that:

1. Applicant shall comply with all of the provisions of the ordinances of the town and the statutes of the state regulating and concerning the sale of goods or wares and merchandise; and
2. Will pay all judgments rendered against the applicant for any violation of the ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deceptive practice by any person transacting such business with such applicant, whether such misrepresentation or deception were made or practiced by the owner or by their servants, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Any action on the bond may be brought in the name of the town to the use of the aggrieved person.

SECTION 9-207 SERVICE OF PROCESS

Before any license for an itinerant vendor, as herein provided, shall be issued, such applicant shall file with the town an instrument nominating and appointing the town clerk his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transaction under the license and the bond given as required by this chapter, or for the performance of the conditions of the bond or for any breach thereof.

The instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notices or process may be made upon the agent and when so made shall be taken and held to be as valid as if personally served on the person or persons applying for the license under this chapter, according to the laws of the state or any other state, and waiving all claims or right of error by reason of such acknowledgement of service or manner of service.

Immediately upon service of process upon the town clerk, as herein provided, the town clerk shall send to the licensee at his last-known address, by certified mail, a copy of the notice.

SECTION 9-208 SALE OF FOODS

A. All applicants for license to sell foods and merchandise for human or animal consumption shall have their application for license approved in accordance with the applicable state food establishment requirements before the licenses are issued.

B. The sale of foods requires an individual license not covered by blanket licenses.

Cross Reference: See also Section 8-601 et seq. on food regulations.

SECTION 9-209 IDENTIFICATION TAG OR BADGE; DISPLAY

A. At all times there shall be posted in a conspicuous place upon each:

1. Licensee if an individual;
2. Vehicle or booth used by a licensee; or
3. Building or premises as appropriate for blanket licenses,

a badge, tag or card issued by the town as proof of issuance of a license. The card, tag or badge shall state the name of the licensee and the date of expiration of the license. Blanket licenses shall be displayed and readily available for inspection by the town.

SECTION 9-210 EXCEPTIONS

A. The following are exempt from the license requirements of this chapter:

1. Farmers and truck gardeners from lands owned, cultivated or controlled by them, who offer for sale or sell, or who solicit and sell from house to house, vegetables, butter, eggs and farm products produced and raised by the farmers and truck gardeners from such land or produced thereon;
2. Needy ex-service persons holding a certificate duly issued by a district judge having jurisdiction as provided by law.

B. Any person who desires to be exempt from the license fees levied under this chapter due to engaging in interstate commerce shall provide sufficient data on transactions and proof to the town to establish the interstate commerce nature of his business and transactions. If the town refuses to issue an interstate commerce exemption for the license fees to a commercial business activity, then the applicant is entitled to a hearing before the town judge.

SECTION 9-211 PROVISIONS CUMULATIVE; REVOCATION

The requirements of this chapter are cumulative to any provisions of state law or town ordinances regulating or governing any of the activities licensed herein. In the case of any conflict between the provisions of this chapter and those of any other town ordinance or state law, the more restrictive requirements shall apply.

SECTION 9-212 PENALTY

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Section 1-108 of this code.
