

ARTICLE II. TRANSIENT VENDORS, HAWKERS, PEDDLERS AND SOLICITORS

DIVISION 1. GENERALLY

Sec. 28-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ahawker, peddler, solicitor or canvasser is defined as any person who, for him/herself, or for another person, firm, or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street; taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limitation, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals, or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of such subject of such sale or whether he is collecting advance payment on such retail sales. For the purposes of the ordinance, the chief of police refers to the chief of police or his designee.

Transient vendor means any person, either principal or agent, who offers for sale or barter any foods, beverages, goods, merchandise or services, either hand-carried or from any vehicle, cart or booth, on any public or private street.

Vending equipment is the cart, booth or table, not to exceed four × eight feet in size (or other configuration not to exceed 32 square feet) and placed within the vending location.

Vending location is an area (no larger than ten × ten feet) within the Salem Common and B-5 zoning district designated by the licensing board to be used for vending.

(Code 1973, § 30-1; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(1); Ord. of 2-9-2006, § 1)

Cross references: Definitions generally, § 1-2.

Secs. 28-27--28-55. Reserved.

DIVISION 2. TRANSIENT VENDORS

Sec. 28-56. License required.

Except as provided in section 28-61, transient vending shall be restricted to the B-5 zoning district and the Salem Common. No transient vendor shall sell or offer for sale any foods, beverages, goods, merchandise or services throughout the Salem Common and B-5 zoning district of the city until he has been issued a license from the city licensing board.

(Code 1973, § 30-2; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(2))

Sec. 28-57. Procedure for obtaining license.

(a) An applicant for a transient vendor's license throughout the B-5 zoning district the Salem Common shall apply to the city licensing board. The cost for such license shall be not less than \$2,000.00 or more than \$3,500.00 annually. Such fee shall be set by the licensing board annually. Licenses will be issued for no more than five specific locations throughout the Salem Common and B-5 zoning district. Any existing license holder whose license was first issued in or before 1995 shall be grandfathered and thereby guaranteed a license until such time as they fail to renew the license(s). The failure of any license holder to renew a license shall reduce the total number of available licenses by the number of licenses not renewed. The licensing board shall have the right to adopt and implement further lawful regulations and restrictions consistent with this division.

Vendors outside the Salem Common and B-5 zoning district must purchase annually a license from the licensing board or the Commonwealth of Massachusetts Division of Standards. The fee for the city license shall be the same as that set for the state \$62.00. Vendors purchasing state licenses will not be charged any additional fees locally but are subject to all local rules and regulations. (See M.G.L.A. c. 101).

(b) Approved licensees and assigned locations shall be chosen by lottery by the licensing board on or before April 1.

(c) All transient vendors selling food or beverages shall be required to obtain a permit from the city health department. All weighing and measuring devices must be inspected and sealed by the city sealer of weights and measures.

(d) Restrictions in size may be required depending upon vendor location.

(e) Signage for each transient vendor location shall be limited to no more than four square feet of signage on the cart or booth.

(Code 1973, § 30-3; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(3))

Sec. 28-58. Identification required.

All transient vendors operating within the Salem Common and B-5 zoning district of the city shall be required to prominently display a license, obtained from the licensing board, which provides the name and address of the licensee and bears a recent photograph of the licensee.

(Code 1973, § 30-4; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(4))

Sec. 28-59. Conduct of business.

All transient vendors operating within the Salem Common and B-5 zoning district of the city shall be governed by the following restrictions:

(1) No transient vendor shall cry his wares to the disturbance of the peace and comfort of the city inhabitants.

(2) All transient vendors shall operate from carts or booths that are neat and clean and that do not leak. Automobiles and trucks that are used to transport carts or booths may not be parked near or adjacent to the place of business.

(3) All transient vendors shall clearly and prominently post prices for all foods, beverages, goods, merchandise and services offered for sale.

(4) Covers for said carts, booths or table may be used in the form of umbrellas or tent/canopies, white being the preferred color. Tents/canopies shall not be larger than ten x ten feet. Tents/canopies are to be used for cover only, not for display of wares.

Advertising is prohibited upon said covers.

(Code 1973, § 30-5; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(5))

Sec. 28-60. Revocation and expiration of license.

(a) Any license granted by the licensing board under this division may be revoked by the board for good cause after reasonable notice to the licensee and a hearing upon the grounds of the revocation. Any licensee who violates any section of this division on three occasions shall be deemed to have provided sufficient cause for revocation of that license.

(b) Unless sooner revoked, any license granted by the licensing board under this division shall be valid for the period beginning April 1 and ending March 30.

(c) Upon revocation or expiration of any license, such license shall revert to the city licensing board. Midyear transfers of licenses shall be allowed, conditioned upon approval by the licensing board.

(Code 1973, § 30-6; Ord. of 9-26-2002, § 1)

Sec. 28-61. Issuance of one-day license.

(a) The licensing board reserves the right to issue a one-day license to any transient vendor for the Salem Common and B-5 zoning district for a fee of not less than \$150.00, nor more than \$500.00, and for the Salem Common for a fee of not less than \$25.00 nor more than \$300.00 per location. Vendors wishing to receive written permission from the City of Salem Park and Recreation Superintendent. Fee to be set by the licensing board annually on the first meeting in the month of March.

(b) The following procedures shall apply to all vendors granted one-day licenses in the Salem Common and B-5 zoning district:

- (1) All applications when received shall be stamped with the time and date by the licensing board clerk.
- (2) The licensing board will assign vendor locations in the order they are received.
- (3) Depending upon locations, one additional license may be granted for said location.
- (4) Vendors granted an additional license shall arrange their cart(s), booth(s) or table(s), including storage, in a manner not to exceed the ten × ten feet area at said location.
- (5) The licensing board reserves the right to limit locations and number of licenses granted.

(Code 1973, § 30-7; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(6)(7))

Sec. 28-62. Temporary license to sell articles for charitable purposes.

The city licensing board shall, under such conditions as it may deem proper, grant to any organization engaged exclusively in charitable work or to a part of any incorporated organization of veterans who served in the military services of the United States in time of war or insurrection a special license authorizing it, upon a particular day and for a charitable purpose named in such license, to sell, through its accredited agents in the streets and other public places within the B-5 zoning district of the city or in any designated part thereof, flags, badges, medals, buttons, flowers, souvenirs, similar small articles, food and beverages; provided that no person under 16 years of age shall be accredited as such agent, that each agent shall wear in plain sight while engaged in selling such articles a badge,

provided by such organization or post and approved by the licensing board, bearing upon it the name of such organization or post and the date on which the license is to be exercised, and that no such agent shall be authorized to make or attempt to make such sales in front of any private premises against the objection of the owner or occupant thereof. The fee for such a license will be waived. Any organization selling food or beverages shall also be required to obtain a permit from the city health department.

(Code 1973, § 30-8; Ord. of 9-26-2002, § 1)

Sec. 28-63. Transient vendors operating outside B-5 zoning district.

No transient vendor shall sell or offer for sale any food, beverages, goods, merchandise or services outside the B-5 zoning districts of the city until he:

- (1) Has been issued a license from the director of standards of the commonwealth under M.G.L.A. c. 101; or the Salem Licensing Board or
- (2) Conforms to the requirements of section 28-91 relative to hawkers, peddler and solicitors.

(Code 1973, § 30-9; Ord. of 9-26-2002, § 1; Ord. of 5-27-2004, § 1(8))

Sec. 28-64. Enforcement.

This division shall be enforced by the licensing board and its licensing inspector.

(Code 1973, § 30-10; Ord. of 9-26-2002, § 1)

Secs. 28-65--28-90. Reserved.

DIVISION 3. HAWKERS, PEDDLERS, SOLICITORS OR CANVASSERS*

***Editor's note:** Ord. of Feb. 9, 2006, § 2, deleted the former Div. 3, §§ 28-91--28-102, and enacted a new Div. 3 as set out herein. The former Div. 3 pertained to similar subject matter and derived from Code 1973, §§ 30-11--30-21; Ord. of Sept. 26, 2002, § 1; Ord. of June 26, 2003, §§ 1, 2.

Sec. 28-91. License required.

It shall be unlawful for any solicitor or canvasser as defined in this division to engage in such business within the city without first obtaining a license therefore in compliance with the provisions of this regulation. The provisions of this regulation shall not apply to any person exempted under M.G.L.A. c. 101, or to any person duly licensed under M.G.L.A. c. 101, or to any person exempted by another Massachusetts General Law, nor shall this regulation be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers. The expiration date of said license shall be determined by the chief of police.

(Ord. of 2-9-2006, § 2)

Sec. 28-92. Application.

(a) Applicants for a license shall file with the chief of police, on a form issued by the police department, a written application signed under the penalties of perjury, containing the following information:

- (1) Name of applicant;
- (2) Address of applicant--Both a home and local address;
- (3) Applicant's height, weight, eye and hair color;
- (4) Applicant's Social Security number;
- (5) The length of time for which the right to do business is desired;
- (6) A brief description of the nature of the business and the goods to be sold;
- (7) The name and home and business address of the applicant's employer If self employed so state;
- (8) Two photographs of the applicant as submitted by the applicant and be two inches x two inches;
Showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (9) The right thumb print of the applicant shall be recorded by the chief of police; and
- (10) If a motor vehicle is to used in conjunction with this business venture; the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.

(b) At the time of filing the application, each applicant shall pay a fee of \$100.00 as determined by the chief of police and approved by the city council.

(Ord. of 2-9-2006, § 2; Ord. of 4-13-2006, § 1)

Sec. 28-93. Investigation and issuance.

(a) Upon receipt of the application, the chief of police shall investigate the applicant's reputation as to morals and integrity.

(b) After an investigation of the applicant's morals and integrity, but within seven business days of the filing of the application, the chief of police shall endorse on such application his approval or disapproval. Failure of the chief of police to act on said permit within seven business days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right to appeal to the city council in writing within seven days of the denial by the chief of police. The city council shall conduct a hearing and act upon the appeal at one of their next two regularly scheduled meetings for which the matter may be legally brought before the city council. The failure of the city council to act shall be deemed approval.

(c) Such license when issued shall contain the signature of the chief of police or the city council president and shall show the name, address, and photograph of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The police department shall keep a record of all licenses issued for a period of six years. Solicitors and canvassers, when engaged in the business of soliciting or canvassing, are required to display the identifying badge issued by the police department by wearing said badge on an outer garment and above the waist. Each licensee is required to possess and display an individual license.

(Ord. of 2-9-2006, § 2)

Sec. 28-94. Duty of police to enforce/transfer.

The police department of the city shall enforce this regulation. No license, as issued under this division, may be transferred or conveyed to another individual.

(Ord. of 2-9-2006, § 2)

Sec. 28-95. Revocation of license.

The chief of police is vested with the jurisdiction over revoking of licenses issued under this division. The chief of police shall cause notice to be served upon said individual for whom is having their license revoked. Any person aggrieved by such revocation may make appeal to the city council within seven days of said revocation. The city council shall schedule a public hearing relative to the aggrieved appeal within the next two regularly scheduled city council meetings where the matter may be legally heard.

(Ord. of 2-9-2006, § 2)

Sec. 28-96. Expiration of license.

Each license issued under the provisions of this division shall continue in force from the date of issue until the 31st day of December of the year in which the license is issues, unless sooner revoked.

(Ord. of 2-9-2006, § 2)

Sec. 28-97. Renewal of license.

A license issued under the provisions of this division may be renewed by the chief of police upon the applicant's completion of a valid application as prescribed herein and the submission of the proper filing fee.

(Ord. of 2-9-2006, § 2)

Sec. 28-98. Misrepresentation.

No solicitor or canvasser, licensed or exempted from license, shall misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapters 93, 93A and 2550 of the Massachusetts General Laws.

(Ord. of 2-9-2006, § 2)

Sec. 28-99. Trespass.

It shall be unlawful for canvassers or solicitors, licensed or exempt from licensing, to enter the premises or remain on the property of residence or business that has displayed a "No Trespassing" or "No Soliciting" sign or poster. Further, it shall be unlawful for canvassers or solicitors, licensed or exempt from licensing, to ignore a resident or business person's no solicitation directive or remain on private property after its owner or the owner's representative has indicated that the canvasser or

solicitor is not welcome.

(Ord. of 2-9-2006, § 2)

Sec. 28-100. Penalty for violation of division.

Any person violating any provision of this regulation shall, upon conviction thereof, be punished by a fine not to exceed \$100.00 for each and every offense under the provisions of Chapter 40 Section 21D, as accepted by the city.

(Ord. of 2-9-2006, § 2)

Secs. 28-101--28-130. Reserved.