

ORDINANCE NO. 1349

AN ORDINANCE AMENDING ARTICLE 1, CHAPTER 5 OF THE CODE OF THE CITY OF GIRARD, KANSAS BY AMENDING ARTICLE 1 TITLE, SECTION 101, SECTION 102 AND ADDING SECTION 111 CONCERNING GARAGE SALES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GIRARD, KANSAS: AMENDING TITLE OF ARTICLE 1 AND SECTION 101 DEFINITIONS AND ADDING SECTION 111 CONCERNING GARAGE SALES.

SECTION 1. PUBLIC OFFICER: NOTICE TO REMOVE.

Section 1. Article Title

The Title of Article 1. Shall hereby be amended to Article 1. Solicitors, Canvassers, Peddlers, Garage sales

Section 2. Definitions

For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting shall mean and include any one or more of the following activities:

- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or
- (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler. The section shall not apply to persons engaged in selling garden or farm produce grown by the seller or to salesmen selling to dealers.

(e) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.

(g) Garage sale shall mean yard sales, patio sales, porch sales, carport sales and any other sales from a residence; provided, however, that home businesses which are properly licensed and authorized under the zoning ordinances of the city are excluded from this definition.

Section 3. License required.

(a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article excluding garage sales, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk. Garage sales do not require a license.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-105(c)

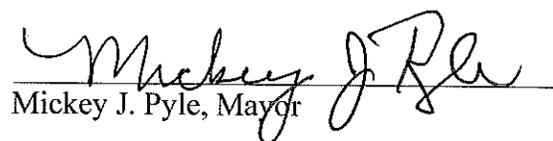
(c) No license shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and (3) any not-for-profit or charitable organization as determined by the governing body.

Section 4. Garage Sales

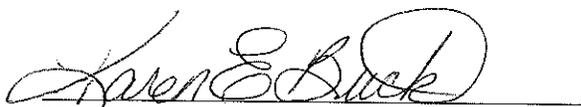
- a) Garage sales are restricted in duration to no more than three days.
- b) Garage sales, excluding the city-wide garage sales advertised by the local newspaper, shall not be held in the same premises more than three times in any one calendar year.
- c) Any person conducting a garage sale, excluding a person participating in the city-wide garage sale(s) advertised by the local newspaper, pursuant to this article shall first be required to obtain a permit through City Hall. Each person applying for a permit shall be required to provide name, address, telephone number (if applicable), location and any other information as is reasonably necessary for the proper regulation of garage sales as provided in this article. The permit fee is One Dollar (\$1.00).
- d) Each person obtaining a permit pursuant to this article shall be required to display the permit in a conspicuous fashion on the premises at which the garage sale is conducted. Permits issued under this article shall be prepared in duplicate with the original being issued to the person conducting the garage sale and one copy going to City Hall. The permits issued hereunder shall specify the dates on which the sale is to be conducted.
- e) Each person conducting a garage sale regulated by this section shall not post any signs advertising said sale more than two days prior to the sale and shall remove the signs at the end of the sale day. Additionally, for the purpose of enforcing the provisions of this article and prosecuting violations of same, the fact that an address is posted on a sign advertising a garage sale shall create a rebuttable presumption that the sign was placed by anyone residing at the address posted.
- f) Any person conducting a garage sale who fails to acquire the required permit shall be subject to a written warning for the first offense and a fine of Twenty-Five Dollars (\$25.00) for subsequent offenses. Any other violations pursuant to this section are subject to a fine of Twenty-Five Dollars (\$25.00).

Section 5. This Ordinance shall be in full force and effect upon its passage, approval, and publication according to law.

PASSED AND APPROVED THIS 20th DAY OF JULY OF THE YEAR 2020.


Mickey J. Pyle, Mayor

ATTEST:


Karen E. Buck, CMC, CPM, City Clerk