

(Published in the Topeka Metro News October 8, 2012)

ORDINANCE NO. 19766

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 5.40.100, § 5.40.120, § 5.90.110, § 5.115.110 and § 5.160.020, as well as creating § 5.115.160, all concerning business licensing requirements and specifically repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 5.40.100, Issuance or denial, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Issuance or denial.

If the application for a license under this chapter is in proper form and accompanied by the license fee as provided in this chapter, the city clerk shall, upon approval of the police department, the health department and the city council, issue the license provided in this chapter, except that in no event shall a license be issued to:

(a) A person who is not a resident of the city and who has not been a resident of the city in good faith for a period of 30 days prior to filing the application;

(b) A person who is not of good character and reputation in the community of his residence;

(c) A person who is an illegal alien in the United States;

(d) A person who within five years immediately preceding the date of making application has been convicted of a felony or ~~of any crime or offense~~ misdemeanor involving moral turpitude crimes against persons and sex offenses as provided in Chapter 21, Articles 54 and 55, Kansas Statutes Annotated, including a diversion granted for any such offenses;

(e) A copartnership unless one of the copartners is a resident of the city and unless all members of such copartnership shall otherwise be qualified to obtain a license; or

(f) To any person for the establishment or operation of a bathhouse or massage salon or employment therein in any district of the city zoned for RR-1, R-1, R-2, R-3, R-4, M-1, M-2, M-3, M-4, O&I-1, O&I-2, O&I-3, C-1, C-2, U-1, MS or PUD.

Section 2. That section 5.40.120, Revocation – Reapplication, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Revocation – Reapplication.

(a) The council shall revoke any license issued under this chapter for any of the following reasons:

(1) If the licensee has fraudulently obtained a license by giving false information in the application therefor.

(2) If the licensee has violated any of the provisions of this chapter or any rule or regulation made by the council or the health department.

(3) If the licensee has become ineligible to obtain a license under this chapter.

(4) The nonpayment of any license fee payable under this chapter.

(5) For the employment of any persons not licensed as provided in this chapter.

(6) For the conviction of a felony or ~~other crime or offense involving moral turpitude~~ misdemeanor of a crime as provided in 5.40.100.

(7) For the refusal or neglect of any licensee to submit to a physical examination or furnish laboratory tests as prescribed in this chapter within five days after request for same by the health department, or failure for a like period of time to comply with any health requirement prescribed by the health department.

(b) Any licensee under this chapter whose license has been revoked shall not be eligible to apply for a license for a period of one year from and after the date of revocation, and no location or premises wherein a license has been revoked shall be used as a bathhouse or massage salon for six months following the date of revocation.

Section 3. That section 5.90.110, Application, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Application.

(a) Applicants for a license as a private security firm, or employee, agent or guard of a private security firm, shall file an application with the chief of police on forms to be prepared by the chief of police and supplied by the police department for that purpose. The application form shall ask, but not be limited to, the following:

(1) If an applicant for a license as a private security firm:

(i) The applicant's name, address, race, sex, date of birth, telephone number and Social Security number;

(ii) A description of the nature and type of business to be conducted;

(iii) The services to be offered and the area expected to be covered in the conduct of the business;

75 (iv) A statement as to the number and type of vehicles to be
76 used in the conduct of the business and a description thereof; and
77 (v) A description of the type of weapons to be used on the job.

78 (2) If an applicant for a license as an agent or an employee of a private
79 security firm:

80 (i) The applicant's name, address, race, sex, date of birth,
81 telephone number and Social Security number; and
82 (ii) The name of the person or firm by whom the applicant is to
83 be employed.

84 (b) Each applicant as designated in subsection (a) of this section shall also
85 file with the application:

86 (1) A statement as to whether or not within twenty years immediately
87 preceding the date of making the application the applicant has been convicted
88 (including any expunged convictions or taken a diversion or deferred prosecution,
89 or adjudication as a juvenile) of any felony or misdemeanor, the nature of the
90 offense, the disposition of the case including the penalty or punishment imposed,
91 and the date and place where such offense occurred;

92 (2) A statement as to whether or not the applicant has ever had a
93 judgment or conviction for fraud, deceit or misrepresentation and, if so, the
94 details thereof; and

95 (3) A statement as to the business or employment records of such
96 applicant for the three years immediately preceding the date of application.

97 Section 4. That section 5.115.110, Certificate of registration/license –
98 Application, of The Code of the City of Topeka, Kansas, is hereby amended to read as
99 follows:

100 **Certificate of registration/license – Application.**

101 No person shall engage in the activities as defined in TMC 5.115.010 within the
102 corporate limits of the city without first obtaining a certificate of registration and license
103 therefor, unless otherwise exempted. Any applicant for a certificate of registration and
104 license under this chapter shall file with the city clerk a sworn application on a form
105 furnished by the city clerk, which shall give the following information:

- 106 (a) Name and date of birth of applicant.
- 107 (b) State sales tax number.
- 108 (c) Credentials from the person, firm or corporation or association whom the
109 applicant is employed by or represents.
- 110 (d) Physical description of the applicant.
- 111 (e) Period of time for which the certificate and license is applied.
- 112 (f) Address of the applicant's present place of residence.
- 113 (g) A brief description of the nature of the business and the goods to be sold.
- 114 (h) Location and zoning of any structure, building or vehicle to be used for the
115 activities defined herein, including identification of the location of the activities and a site
116 plan indicating where on the identified property the activities will take place.
- 117 (i) Fingerprints of the applicant.
- 118 (j) Whether or not within ten years immediately preceding the date of making
119 application the applicant has ~~ever been convicted of a crime involving moral turpitude or~~

any felony ~~conviction~~ or misdemeanor involving crimes against persons as those crimes are defined in Chapter 21, Article 54, Kansas Statutes Annotated, and theft, burglary, and criminal use of a financial card as those crimes are defined in Chapter 21, Article 58, Kansas Statutes Annotated. A diversion granted for any of the offenses enumerated in this section shall be considered as a conviction.

(k) Written authorization from the owner or lessee of the property to conduct the activities at the identified site.

Section 5. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.115.160, which said section reads as follows:

Denial or Revocation of registration and license.

The city may deny or revoke a registration and license if the applicant or licensee has been convicted of a crime set forth in TMC 5.115.110.

Section 6. That section 5.160.020, Regulation, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Regulation.

(a) License Required. From and after 30 days of the effective date of this chapter, it shall be unlawful for a person to sell or otherwise dispense tobacco and/or novelty items via retail unless the premises from which the items are sold or dispensed is licensed as provided herein.

(b) ~~Initial~~ Application for License. Any person desiring to license a premises for the sale of tobacco/drug paraphernalia and/or novelty items within the corporate limits of the city of Topeka shall first make application at the city clerk's office and submit an application fee of \$500.00. Each such license shall be effective for one

calendar year from the date of issuance. The application shall be made upon a form approved by the city attorney and shall be completed by submitting the following information:

(1) The name, address, and telephone number of the applicant and length of time the applicant has resided at the address given;

(2) The name and address of the owner of the property upon which the premises is located (if different from the applicant);

(3) The name, address, and telephone number of the location of the premises desired to be licensed; and

(4) A sworn statement that the applicant is a citizen of the United States and not less than 21 years of age, and that he or she has not within the last five years immediately preceding the date of application been convicted of a felony or ~~any crime~~ misdemeanor involving ~~moral turpitude, alcoholic beverages, the sale, distribution or use of tobacco, tobacco products, tobacco paraphernalia, or of~~ any controlled substance, ~~including laws pertaining to the operation or attempted operation of a motor vehicle while under the influence of intoxicating liquor or drugs.~~ A diversion granted for any of the offenses enumerated in this section shall be considered a conviction.

(c) Issuance of License. Within 30 days of receiving the application, the city clerk shall notify the applicant as to whether the license has been granted or rejected. In the event a license is rejected, the city clerk shall refund any license fee paid and advise the applicant in writing of the reasons for such action within 15 days of said denial.

(d) Annual Reapplication. Any person desiring to renew a license issued pursuant to this chapter by the city shall make reapplication at the office of the city clerk not more than 60 days prior to the expiration of an existing license. Each such reapplication shall be accompanied by a \$500.00 license fee. The reapplication shall be verified and made upon the same form as an application.

(e) Transfer of License. A license issued pursuant to this chapter shall not be transferable to any other person or premises.

(f) Receipt, Issuance and Display of License. The city clerk shall issue to the license holder a receipt showing that the license application fees have been paid and that such payment shall be the payment in full for the term of the license as shown by the certified copy of the license as authorized by the city clerk. The license shall be prominently displayed at the licensee's premises.

(g) Denial or Revocation of License. The city may deny or revoke a license for any of the following reasons:

(1) False or misleading information or data was given on any application or material facts were omitted from any application;

(2) The fee required to be paid by this chapter is not paid in full; and/or

(3) ~~Any person is~~The applicant or licensee has been convicted of any crime ~~involving the sale or distribution of controlled substances on the licensed premises~~set forth in subsection (b) of this section.

(h) Sale to Minors Prohibited. It shall be unlawful for a person to sell tobacco paraphernalia and/or novelty items to a person under 18 years of age.

Section 7. That original § 5.40.100, § 5.40.120, §5.90.110, § 5.115.110 and § 5.160.020 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 9. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 10. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on October 2, 2012.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk