

Chapter 22

BUSINESSES*

Article I. In General

- Sec. 22-1. Definitions.
- Sec. 22-2. Short weights and measures prohibited.
- Sec. 22-3. Deposit of advertising matter on streets, other public property.
- Sec. 22-4. Annual inspection fee and service charge for telephone companies.
- Sec. 22-5. Consent required for sale of personal property on or in vacant property.
- Sec. 22-6. Tree trimmers must clean up after operations.
- Secs. 22-7—22-30. Reserved.

Article II. Licenses Generally

- Sec. 22-31. Required.
- Sec. 22-32. Separate license for each place of business and each profession, calling or business engaged in.
- Sec. 22-33. Bond required for certain applicants.
- Sec. 22-34. Fee—Schedule.
- Sec. 22-35. Same—Not prorated or refunded.
- Sec. 22-36. Issuance; contents.
- Sec. 22-37. Display and carrying on person.
- Sec. 22-38. Assignment or transfer.
- Sec. 22-39. Duplicates when lost or destroyed.
- Sec. 22-40. Expiration.
- Sec. 22-41. Revocation.
- Sec. 22-42. Special provisions applicable to fireworks wholesaler's license.
- Sec. 22-42.1. Licensed retail sales of fireworks.
- Sec. 22-42.2. Requirements.
- Sec. 22-42.3. Inspections.
- Sec. 22-42.4. Operation of stands or structures.
- Sec. 22-42.5. Transferability.
- Sec. 22-42.6. Removal of structures.
- Sec. 22-42.7. Penalties.
- Secs. 22-43—22-65. Reserved.

Article III. Amusements

- Sec. 22-66. Hours of operation for pool, domino and amusement halls or parlors.
- Sec. 22-67. Public dances.
- Sec. 22-68. Sunday movies.
- Sec. 22-69. Shooting galleries.
- Secs. 22-70—22-90. Reserved.

Article IV. Peddlers and Solicitors

- Sec. 22-91. Registration of peddlers and solicitors engaged in interstate commerce.

***Cross references**—Alcoholic beverages and nonintoxicating beverages, ch. 6; alcoholic beverages, § 6-26 et seq.; electricians, § 18-111 et seq.; plumbers, § 18-186 et seq.; mechanical contractors, journeymen and apprentices, § 18-266 et seq.; building mover's license, § 18-325; ambulances, § 42-1; discrimination, § 58-26 et seq.; manufactured homes and trailers, ch. 74; taxation, ch. 98; vehicles for hire, ch. 110.

McALESTER CODE

- Sec. 22-92. Hours, days regulated.
- Sec. 22-93. Going upon residences without invitation prohibited.
- Sec. 22-94. Purpose and intent.
- Sec. 22-95. Definitions.
- Sec. 22-96. Offense.
- Secs. 22-97—22-115. Reserved.

Article V. Precious Metals Dealers

Division 1. Generally

- Sec. 22-116. Definitions.
- Sec. 22-117. Identification of sellers.
- Sec. 22-118. Exemptions.
- Sec. 22-119. Records kept by dealer.
- Sec. 22-120. Report of transactions to police.
- Sec. 22-121. Right of law enforcement officers to inspect dealer's records.
- Sec. 22-122. Holding period after acquisition of items by dealer.
- Sec. 22-123. Purchase from minors.
- Secs. 22-124—22-135. Reserved.

Division 2. License

- Sec. 22-136. Required.
- Sec. 22-137. Application.
- Sec. 22-138. Fee.
- Sec. 22-139. Investigation of application; issuance or denial.
- Sec. 22-140. Transfer; display.
- Secs. 22-141—22-160. Reserved.

Article VI. Used Goods

- Sec. 22-161. Garage sales, other residential sales.
- Sec. 22-162. Pawnbrokers, junk and secondhand dealers shall not buy or receive property from minors.
- Sec. 22-163. Fencing requirements for junkyards, automobile salvage yards.
- Secs. 22-164—22-173. Reserved.

Article VII. Medical Facilities

- Sec. 22-174. Hospitals.
- Sec. 22-175. Ambulatory surgical care facilities.

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

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

Automobile salvage yard means any yard, premises or tract of land in or upon which nonoperating motor vehicles are stored, or upon which motor vehicles, appliances and other metal objects of any kind are wrecked or dismantled for the purpose of wrecking, whether or not such salvage is for sale.

Junkyard means any place where any kind of bones, hides, shoes, clothing, old iron, tin, rubber goods, rags, sacks, bottles, cans, paper, metal and other articles of whatsoever kind, commonly called junk, are kept or sold.

Peddler or *solicitor* means any person, whether a resident of this city or not, traveling from house to house, or from street to street, for the purpose of selling or soliciting for sale goods, wares, merchandise or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the city at an established place of business. The word "peddler" shall include the terms "solicitor," "transient or itinerant merchant or vendor," and "transient or itinerant photographer."

Tree trimmer means a person who engages in the business or occupation of pruning, trimming or spraying trees for hire.
(Code 1974, § 8-1)

Cross reference-Definitions generally, § 1-2.

Sec. 22-2. Short weights and measures prohibited.

It shall be unlawful for any person to sell, or offer for sale, any food, fuel, clothing or any other commodity which does not weigh or measure fully

as much, according to standards weights or measures of the state, as the weight or measure for which it is sold or offered for sale.

(Code 1974, § 8-3)

State law reference-Weights and measures generally, 2 O.S. § 5-62.1 et seq.

Sec. 22-3. Deposit of advertising matter on streets, other public property.

It shall be unlawful for any person to throw, leave or deposit, or cause to be thrown, left or deposited, upon any street, alley, sidewalk or other public area, any handbill, circular or other advertising matter.

(Code 1974, § 8-2)

Sec. 22-4. Annual inspection fee and service charge for telephone companies.

(a) There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the city, in an amount equal to two percent of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulation and police control of the construction of lines and equipment in the city. The inspection fee and charge shall be due and payable to the city on or before May 1 of each year, and shall be paid into and appropriated and expended from the general revenue fund of the city.

(b) During continued substantial compliance with the terms of this section by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege and permit fees or taxes or assessments, except ad valorem taxes; provided, however, that it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space or pole contacts of any telephone company for the fire alarm and police call systems of the city.

(Code 1974, § 8-4)

Sec. 22-5. Consent required for sale of personal property on or in vacant property.

It shall be unlawful for any person, including a civic or religious organization, to sell, barter, trade or transfer any merchandise, wearing apparel or other personal property of any kind on or in any vacant property in the city, without the consent of the owner or person in control of such property. (Code 1974, § 8-13)

Sec. 22-6. Tree trimmers must clean up after operations.

Any person engaging in the occupation of a tree trimmer shall remove all limbs, trees and debris cut or caused by him in such business from the public parking, streets and other public places, and shall fill in all excavations made by him, and shall leave no stumps or other objects protruding in the parking area or other public places. (Code 1974, § 8-16)

Secs. 22-7-22-30. Reserved.

ARTICLE II. LICENSES GENERALLY

Sec. 22-31. Required.

It shall be unlawful for any person to engage in any business, trade, occupation, calling, profession or other activity mentioned in section 22-34, or to operate or maintain any place referred to in section 22-34, unless he has a current license to do so issued in accordance with this article. (Code 1974, § 8-33)

Sec. 22-32. Separate license for each place of business and each profession, calling or business engaged in.

Every person having more than one place of business or who shall exercise or follow more than one profession, calling or business required to be licensed by this article shall obtain a separate license for each such place and each such profession, calling or business. (Code 1974, § 8-34)

Sec. 22-33. Bond required for certain applicants.

(a) An applicant for license under this article shall be required to produce a bond in the penal sum of \$2,000.00, signed by the applicant and signed, as surety, by some surety company authorized to do business in the state, conditioned upon compliance with all applicable ordinances of the city and for final deliverance of goods, wares, merchandise, services, photographs, magazines and newspapers in accordance with the terms of any order obtained prior to delivery, and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist or result from the sale or service rendered, and that may be discovered by such purchaser or customer within 30 days after delivery. Such bond shall be for the use and benefit of all persons that make any purchase or give any order to the principal on the bond or to any agent or employee of the principal. In the case of multiple representatives or agents, the bond will be to cover the actions, sales and services of all agents.

(b) This section shall not apply to applicants for licenses under section 22-34(1), (7), (8), (9) or (10). (Code 1974, § 8-35)

Sec. 22-34. Fee-Schedule.

The city hereby imposes and levies a license fee or tax on every person engaged in, conducting, pursuing, carrying on or operating any business, trade, occupation, calling or activity mentioned in the following schedule or maintaining or operating any place mentioned in such schedule. Such license fee or tax shall be paid prior to the issuance of the license and the amount thereof shall be as follows:

- (1) Auctioneer license, \$25.00 per year per license.
- (2) Auction/merchant permit, \$50.00 per auction.
- (3) Auction permit, \$10.00 per day.
- (4) Automobile salvage yard, \$100.00 per year.

- (5) Bingo parlor license, \$250.00 per year per license (veterans organizations excluded).
- (6) Carnival, \$500.00 per day.
- (7) Circus, \$500.00 per day (nonprofit organizations qualified by IRS § 501C3 excluded).
- (8) Junk dealer or junkyard, \$100.00 per year.
- (9) Peddler or solicitor, \$100.00 per year, or \$10.00 per day. For each additional peddler or solicitor representing the person, the fee or tax shall be \$60.00 per year, or \$6.00 per day. The peddler or solicitor shall also pay the estimated sales tax to the state tax commission prior to issuance of permit. This paragraph shall not apply to peddlers and solicitors engaged in interstate commerce and registered under section 22-91.
- (10) Pest control service, exterminators and termite contractors, \$100.00 per year.
- (11) Restaurant and/or food service as follows:

<i>Employees</i>	<i>Per year</i>
1—10	\$ 25.00
11—25	35.00
26 or more	50.00
- (12) Shooting gallery, \$50.00 per year. This paragraph shall not apply to turkey shoots or similar types of public shootings sponsored by civic, fraternal, veterans or other nonprofit organizations.
- (13) Theatre license, \$75.00 per year per viewing screen.
- (14) Tree trimmer, \$50.00 per year.
- (15) Wholesale fireworks distributor, \$100.00 per year.

(Code 1974, § 8-36; Ord. No. 2021, § 1, 8-10-94; Ord. No. 2280, § 1, 1-8-08)

State law references—General authority to levy and collect license taxes, 11 O.S. § 22-106; authority to license tree trimmers, 2 O.S. §§ 3—278; authority to levy license tax on shooting galleries, 63 O.S. § 705.

Sec. 22-35. Same—Not prorated or refunded.

No license fee or tax required by this article shall be prorated or refunded for any reason. (Code 1974, § 8-37)

Sec. 22-36. Issuance; contents.

A license required by this article shall be issued by the city treasurer, upon the applicant's compliance with and subject to all applicable provisions of this chapter and other ordinances of the city. Such license shall be signed by the city treasurer and shall specify the business, trade, occupation, profession or other activity for which it is issued. (Code 1974, § 8-38)

Sec. 22-37. Display and carrying on person.

It shall be the duty of any person to whom a license is issued under this article to post the same in a secure manner in some part of his place of business where the license may be readily seen at all times by any person entering such place of business. Every peddler or solicitor shall have his license on his person at all times while conducting business and shall present the license to any person upon request. (Code 1974, § 8-39)

Sec. 22-38. Assignment or transfer.

The assignment or transfer of licenses issued under this article is prohibited. (Code 1974, § 8-40)

State law reference—Similar provisions, 11 O.S. § 22-107.

Sec. 22-39. Duplicates when lost or destroyed.

Whenever any license issued under this article has been lost or destroyed without any wrongful act or connivance by the holder, the city treasurer, on application, shall issue a duplicate license for the unexpired time. Before a duplicate is issued, the holder shall make and file with the city treasurer an affidavit that the license has not been transferred, that it has been lost or destroyed without any wrongful act or connivance

by the holder, and that, if believed lost, he has made diligent search therefor. The fee for such duplicate license shall be \$1.00.
(Code 1974, § 8-41)

Sec. 22-40. Expiration.

Every annual license issued under this article shall expire on June 30 next following the date of its issuance. Daily licenses shall expire at the expiration of the number of days for which issued and for which the license fee or tax has been paid.
(Code 1974, § 8-42)

Sec. 22-41. Revocation.

At any time, for the protection of the morals, peace, health or safety of the people of the city or for violation of the ordinances of the city, a license issued under this article may be revoked by the city manager, or a representative of the city manager, giving the licensee a hearing on the matter prior to revocation.
(Code 1974, § 8-43)

Sec. 22-42. Special provisions applicable to fireworks wholesaler's license.

No person shall be issued a license for the wholesale sale and distribution and storage of fireworks unless such business is conducted from facilities which have been inspected and approved by the Alcohol, Tobacco and Firearms Division of the U.S. Treasury, and unless he has secured a license under the provisions of 18 U.S.C. § 40 to engage in such business, and unless he has complied with zoning ordinances of the city.
(Code 1974, § 8-45)

Sec. 22-42.1. Licensed retail sales of fireworks.

(a) Issuance of this license does not allow the applicants or organizations to manufacture, use, discharge or explode any common class C or other firework and related items within the corporate limit of the city.

(b) All applicants must follow Oklahoma State laws and Oklahoma State Fire Marshal requirements for the sale of fireworks commonly referred to as class "C". Applicant must obtain any license

or permit required by State of Oklahoma. A copy of the requirements for consumer fireworks retail sales facilities from the Oklahoma State Fire Marshall will be given to applicants.

(c) Annual licenses for the sale of class C fireworks, except those restricted by the State of Oklahoma are only authorized between June 15 and July 6 and from December 15 through January 2. Applicants are required to obtain separate applications for the July 4 season and New Year's season.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.2. Requirements.

(a) Any applicant individual or organization must obtain a permit from the City of McAlester by completing an application with the city. All applications must be approved by code enforcement, fire department and police department.

(b) All applicants must be at least 21 years of age to be eligible for a license.

(c) All applicants are required to obtain a \$25.00 permit for each location and per season within the corporate limits. Nonprofit organizations are not exempt from the permit fee.

(d) Applicants must have a current sales tax permit filed with Oklahoma Tax Commission.

(e) Retail license must be posted and visible in sales area. Address must be the physical address of the facility.

(f) Signs stating "FIREWORKS-NO SMOKING WITHIN 50 FEET" must be posted on all sides of the entire facility.

(g) Each stand must have a portable fire extinguisher with a minimum 2A/IBC rating. If stand exceeds 200 square feet two portable fire extinguishes are required with at least one being a multi-purpose dry chemical type.

(h) Each structure must be located within commercially zoned areas or an approved area by code enforcement, fire department and police department. Structures must comply with all the requirements by city and state codes.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.3. Inspections.

(a) The site for the fireworks stand must be inspected by the code enforcement officer to verify that all requirements for zoning have been met.

(b) The site for the fireworks stand must be inspected by the fire department for safety and ordinance compliance.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.4. Operation of stands or structures.

(a) Fireworks stands or structures are not to be opened before June 15 or opened after 11:00 p.m. on July 5 of the licensed year.

(b) Fireworks stands or structures are not to be opened before December 15 or opened after 11:00 p.m. on January 2.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.5. Transferability.

All licenses granted will be strictly and absolutely nontransferable.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.6. Removal of structures.

All fireworks stands and structures for the sale of fireworks and related items must be taken down and/or removed from their location within 15 days after July 4 and after January 1 of each year. In addition, the area wherein the stand or structure was located shall be returned to its prior condition by picking up all refuse pertaining to the operation of the fireworks stand or structure.
(Ord. No. 2494, 4-22-14)

Sec. 22-42.7. Penalties.

Any person, firm or corporation or other legal entity, which shall violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of a misdemeanor, subject to a fee not to exceed \$1,000.00, or imprisonment not to exceed

one year, or both. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.
(Ord. No. 2494, 4-22-14)

Secs. 22-43—22-65. Reserved.**ARTICLE III. AMUSEMENTS****Sec. 22-66. Hours of operation for pool, domino and amusement halls or parlors.**

It shall be unlawful for any person to operate, conduct or maintain any public pool or billiard hall, or public pool or billiard table, or any public domino hall, parlor or table for playing the game of dominoes, or any public recreation or amusement parlor, hall or place, within the city, except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Friday of each week and between 7:00 a.m. on Saturday and 2:00 a.m. on the following Sunday, and between 12:00 noon and 12:00 midnight on Sunday.
(Code 1974, § 8-5)

Sec. 22-67. Public dances.

(a) It shall be unlawful for any person to operate, conduct or supervise, or assist in the operation, conduct or supervision of, any dance where the public is permitted to dance, at any time on Sunday or between 1:00 a.m. and 7:00 a.m. on any other day.

(b) Any place operated in violation of this section shall constitute a public nuisance subject to abatement under the provisions of chapter 46, article II of this Code.
(Code 1974, § 8-6)

Sec. 22-68. Sunday movies.

It shall be unlawful for any person to show moving pictures, for profit or to persons who pay admission charges to view them, at any time between the hours of 2:00 a.m. and 1:00 p.m. on Sunday.
(Code 1974, § 8-8)

Sec. 22-69. Shooting galleries.

Every shooting gallery constructed, established, set up or operated in this city shall be constructed, established, set up and operated in accordance with the standards, specifications and requirements of 63 O.S. §§ 701 through 708, and shall comply with all the requirements thereof. (Code 1974, § 8-9)

Secs. 22-70—22-90. Reserved.

ARTICLE IV. PEDDLERS AND SOLICITORS

Sec. 22-91. Registration of peddlers and solicitors engaged in interstate commerce.

(a) It shall be unlawful for any person engaged in interstate commerce to go from house to house or place to place in the city soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers or magazines, without having first registered with the city treasurer giving the following information:

- (1) The name, house address and local address, if any, of the registrant.
- (2) The name and address of the person whom he represents or for whom or through whom orders are to be solicited or cleared.
- (3) The nature of the articles or things which are to be sold or for which orders are to be solicited.
- (4) Whether the registrant, upon any sale or order, shall demand, receive or accept payment or any deposit of money in advance of final delivery.
- (5) The period of time during which the registrant wishes to solicit or sell in the city.

(b) At the time of the registration provided for in this section, the registrant shall submit, for inspection of the city treasurer, written proof of his identity which may be in the form of an automobile operator's license or an identification

letter or card issued to the registrant by the person for whom or through whom orders are to be solicited or cleared.

(c) The term "interstate commerce," as used in this section, means soliciting, selling or taking orders for any goods, wares, merchandise, photographs, newspapers or magazines, or subscriptions to newspapers or magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this city in the fulfillment of such orders.

(Code 1974, § 8-10)

Sec. 22-92. Hours, days regulated.

It shall be unlawful for any person to engage in the business or activity of a peddler or solicitor within the city between 6:00 p.m. and 8:00 a.m. or at any time on Sunday, without obtaining, in advance, the express permission of the prospective customer or person being solicited.

(Code 1974, § 8-11)

Sec. 22-93. Going upon residences without invitation prohibited.

The practice of going in and upon private residences in the city, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or occupant of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance and punishable as such nuisance as a misdemeanor.

(Code 1974, § 8-12)

Sec. 22-94. Purpose and intent.

The public purpose of this section is to protect the rights of all peoples to exercise their First Amendment rights as well as the people and/or property of those who chose to be non-participating.

(Ord. No. 2469, § 2, 6-25-13)

Sec. 22-95. Definitions.

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

- (1) "*Beg*," "*begging*" or "*panhandling*" shall be synonymous and shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Solicit" or "soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value the same as begging or panhandling and also include the offer to immediately exchange and/or sell any goods or services.
- (2) "*Aggressive manner*" shall mean:
 - a. Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;
 - b. Continuing to solicit from a person after the person has given a negative response to such soliciting;
 - c. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
 - d. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
 - e. Using violent or threatening language and/or gestures toward a person solicited which are likely to provoke an immediate violent reaction from the person being solicited;
 - f. Following the person being solicited, with the intent of asking that person for money or other things of value;
 - g. Speaking in a volume unreasonably loud under the circumstances;
 - h. Soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;
 - i. Soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;
 - j. Begging in a group of two or more persons in an intimidating fashion;
 - k. Soliciting any person within 20 feet of any outdoor seating area of any cafe, restaurant or other business, automated teller machine, mass transportation stop, public toilet or pay telephone;
 - l. Soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.
- (3) "*Automated teller machine*" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.
- (4) "*Public place*" shall mean a place to which a governmental entity has title, to which the public or a substantial group of persons has access, including, but not limited to: any street, highway, sidewalk, walk-

way, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

(Ord. No. 2469, § 3, 6-25-13)

Sec. 22-96. Offense.

It shall be unlawful for any person to aggressively beg, panhandle or solicit any other person.
(Ord. No. 2469, § 4, 6-25-13)

Secs. 22-97—22-115. Reserved.

**ARTICLE V. PRECIOUS METALS
DEALERS***

DIVISION 1. GENERALLY

Sec. 22-116. 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:

Precious metal dealer or dealer means any person engaged in the business of buying precious metals, whether for cash or trade; and further, this definition shall include any dealer whose business is itinerant in nature, as well as any dealer who conducts his business at a permanent and fixed location within the city. As used herein, "dealer" shall include the employers and principals on whose behalf any purchase or trade is made and all employees or agents personally making such purchases or trades.

Precious metals means items containing, in any degree, as part of its composition gold, silver, platinum or pewter.

(Code 1974, § 36-1)

Cross reference—Definitions generally, § 1-2.

Sec. 22-117. Identification of sellers.

All dealers shall require each person offering an item or article for sale or trade to produce personal identification. Dealers shall ascertain

***State law references**—Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq.; preservation of pre-existing local ordinances, 59 O.S. § 1527.

the name, permanent address and age of all sellers of precious metals. Dealers shall verify a seller's identity only by means of a driver's license or some other form of identification issued by a governmental agency which must contain thereon a picture or adequate physical description of the person identified. It shall be unlawful for a dealer to fail to request identification or to accept inadequate identification before transacting business with a seller of precious metals.

(Code 1974, § 36-7)

Sec. 22-118. Exemptions.

(a) The provisions of this article shall not apply to pawnbrokers licensed by the city who are otherwise regulated.

(b) Retail merchants, having permanent and fixed business within the city, shall be exempted from the provisions of this article insofar and only insofar as they make purchases directly from manufacturers, suppliers and wholesalers of precious metals for their retail inventories.

(c) Upon obtaining the written approval of the chief of police, exhibitors at bona fide coin shows, art shows, antique shows and exhibitions of a similar nature, where the same are sponsored by a local nonprofit, civic or cultural organization, shall be exempted from the provisions of this article.

(Code 1974, § 36-13)

Sec. 22-119. Records kept by dealer.

Every dealer shall keep and maintain an adequate record of all transactions with sellers of precious metals. The record of the transactions shall be maintained in a running ledger book; or, the dealer may maintain the original bill of sale, or other written receipt, issued at the time of the transaction. Entries on the record shall be legibly written in ink at the time the dealer acquires the article from the seller; and the same shall not be obliterated or erased. The following shall be required to be maintained for each transaction with a seller of precious metals:

- (1) The date and time of the sale or trade.
- (2) Name, address and age of the seller of the items.

- (3) The number appearing on the seller's driver's license or other governmental identification card.
- (4) Physical description of the seller, including height, weight, race and sex.
- (5) A concise and accurate description of the article acquired by the dealer, including any identifying marks, names, initials, serial numbers, brand names or other personalized features.
- (6) The amount paid for the article or articles by the dealer.

The dealer shall maintain the information required by this section for a period of one year from the date of the acquisition of the article.

(Code 1974, § 36-8)

State law reference—Required records, 59 O.S. § 1530.

Sec. 22-120. Report of transactions to police.

Within 24 hours of the sale or trade of any article of precious metal to a dealer, the dealer shall deliver to the office of the chief of police, or the front desk of the police department, a duplicate or photocopy of the record of transaction required to be kept. If the delivery time falls on a weekend or holiday, the dealer shall deliver the required records no later than 12:00 noon of the next regular workday. The dealer may supply a written statement containing only the following information:

- (1) Name of the dealer and name of the agent or employee dealing with the seller.
- (2) Description of article or articles received by dealer, including any identifying marks, numbers, names or initials.
- (3) Name and address of the seller of each item.

(Code 1974, § 36-9)

Sec. 22-121. Right of law enforcement officers to inspect dealer's records.

Any police officer of the city, or any law enforcement officer of the county, state or federal government, during the dealer's regular business hours, shall have the right to enter the business prem-

ises of the dealer for the purpose of inspecting the records required to be maintained under this article or any item of precious metal regulated hereunder. The application for, and acceptance of, a license under this article shall be deemed conclusive consent of the dealer to such entry and inspection.

(Code 1974, § 36-10)

Sec. 22-122. Holding period after acquisition of items by dealer.

No precious metals of any kind whatsoever shall be removed or sold from the place of business of any dealer for a period of 72 hours from the time the same has been acquired or purchased by the dealer. During this period of time, all items or articles of precious metal shall be retained in the original condition in which they were received by the dealer and shall be available for inspection during the 72-hour period. Itinerant dealers, after notifying the chief of police, may deposit such for the required 72-hour period in a place of safekeeping, located within the city and approved by the chief of police.

(Code 1974, § 36-11)

State law reference—Holding periods, 59 O.S. § 1531.

Sec. 22-123. Purchase from minors.

No dealer shall purchase from or receive in trade any precious metal from any seller under the age of 18 years, unless the parents or guardian of such person shall consent to the transaction in writing. The written consent shall state that the transaction is fully approved by the parent or guardian, shall be signed by the same and must contain the address and telephone number of the parent or guardian.

(Code 1974, § 36-12)

Secs. 22-124—22-135. Reserved.

DIVISION 2. LICENSE

Sec. 22-136. Required.

No person shall carry on, operate or engage in the business of purchasing, whether for cash or trade, any precious metals within the city without first obtaining a license from the city clerk.

(Code 1974, § 36-2)

Sec. 22-137. Application.

Any person desiring to obtain a license as a precious metal dealer shall file a written application with the city clerk, together with the amount of the license fee as hereinafter prescribed. The application form shall request the following information:

- (1) If the applicant is an individual, the full name, birthdate, permanent residence address and telephone number.
- (2) If the applicant is a partnership, corporation or other business entity, the full name, birthdate, permanent residence address and telephone number of each partner or each officer and director.
- (3) Listing of any trade names or aliases used by the applicant for the last five years.
- (4) The names, birthdates, permanent addresses and telephone numbers of each person employed, or intended to be employed, in the business as of the time of the filing of the application.
- (5) Exact address or location of the place within the city where the business of the dealer will be carried on.
- (6) If the applicant's business is itinerant with no permanent location within the city, a listing of the last four locations immediately preceding the date of the application where the applicant conducted business as a precious metal dealer.

(Code 1974, § 36-3)

Sec. 22-138. Fee.

There is hereby levied a license fee, on a daily or annual basis as the applicant may elect, for issuance of a precious metals dealer's license, which shall be paid at the time an application is made. No part of the license fee shall be subject to refund or abatement. The amount of the fee shall be \$50.00 per day or \$150.00 per year.

(Code 1974, § 36-4)

Sec. 22-139. Investigation of application; issuance or denial.

(a) Upon receipts of the application and required fees under this division, the city clerk shall refer the same to the chief of police for investiga-

tion of the applicant's moral character and business responsibility. Within five days from the receipt of the application, the chief of police shall return the same to the city clerk, accompanied by his recommendations to issue or deny the license. Grounds for denial shall include: the application contains a materially false or fraudulent statement; and the applicant, or an officer, partner or employee thereof, has been convicted of a felony within the five years immediately preceding the date of the application.

(b) Upon receipt of the recommendation of the chief of police, the city clerk shall issue the license accordingly. If the license is denied, the grounds for denial shall be stated in writing and a copy supplied to the applicant.

(Code 1974, § 36-5)

Sec. 22-140. Transfer; display.

The license issued under this division shall not be transferable to any other person. No person shall do business as a precious metals dealer, or attempt to do business, under a license transferred to him. The dealer shall at all times prominently display on the business premises a currently valid license.

(Code 1974, § 36-6)

Secs. 22-141—22-160. Reserved.**ARTICLE VI. USED GOODS****Sec. 22-161. Garage sales, other residential sales.**

(a) As used in this section, the term "residential sale" shall mean any sale of what is held out to be or is commonly known as a garage, porch, backyard or patio sale or any other type of general sale conducted from or on any premises not located in a zoning district which permits such sale, where goods or articles of any type are held out for sale to the public. This definition shall not include situations where specific items are held out for sale and all advertisements of such sale specifically name the items to be sold.

(b) No person shall hold, conduct, engage in or participate in, in any manner, more than one residential sale lasting more than three days each within a six-month period of time.

(c) The provisions of this section shall not apply to or affect the following:

- (1) Persons acting pursuant to an order of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.
- (3) Duly licensed auctioneers selling at auctions.
- (4) Charitable organizations or persons, when the proceeds from the sale are used directly for charitable purposes and the goods or articles are not sold on a consignment basis.

(d) It shall be unlawful for any person to engage in the business or activity of a residential sale as herein provided, without first obtaining a permit for same. The permit shall be \$5.00 for each residential sale. The permit holder shall maintain a copy of the permit at the site of sale in such a manner as may be seen from street.

(e) Any person who shall violate any provision of this section shall be subject to a penalty as provided for in section 1-8.
(Code 1974, § 8-13.1)

Sec. 22-162. Pawnbrokers, junk and second-hand dealers shall not buy or receive property from minors.

It shall be unlawful for any pawnbroker, any junk dealer or secondhand dealer to buy, receive as a pledge, or receive for storage, or take possession of, any property, secondhand goods, clothing or wares of any kind, from any minor within the city.

(Code 1974, § 8-14)

State law reference—Pawnbrokers not to accept pledge from persons under 18 years old, 59 O.S. § 1511(C)(1).

Sec. 22-163. Fencing requirements for junkyards, automobile salvage yards.

(a) It shall be unlawful for any person to keep or maintain a junkyard or automobile salvage yard in the city, unless the same is enclosed by a

secure and solid fence of permanent material and of a minimum height of eight feet. Pickets, if used, shall be four inches wide with not more than a one-inch opening between them. Entrance to such yards shall be by doors or gates which can be firmly and securely locked. The doors or gates shall be kept locked at all times when the junkyard or automobile salvage yard is not open for business.

(b) The fence required by this section shall be kept in good repair at all times, and if made of wood, it shall be kept painted. The fence shall not contain any poster or advertising of any kind, except one sign of the licensee not exceeding 100 square feet in size.

(c) All salvage and junk at a junkyard or automobile salvage yard, and all trucks, trailers and other equipment used in handling the same, shall be kept within the fence required by this section, clear of the street and parking areas, and shall not be stored, parked or deposited on the street or parking areas.

(Code 1974, § 8-15)

Secs. 22-164—22-173. Reserved.

ARTICLE VII. MEDICAL FACILITIES*

Sec. 22-174. Hospitals.

(a) No new hospital shall be developed, either through construction or conversion of existing space, in the city unless a permit therefor has been issued by the city treasurer.

(b) Before developing a facility for use as a newly-licensed hospital, the person proposing to operate the hospital shall apply to the city treasurer for a permit for the facility in addition to any other required approvals. The application for permit shall be in such form as the city treasurer shall prescribe and shall include a demonstration

***Editor's note**—Ord. No. 2066 §§ 1, 2, adopted May 27, 1997, set out provisions intended for use as §§ 22-174, 22-175 of art. VI, Used Goods. At the editor's discretion, and to preserve the causality of this Code, the provisions of Ord. No. 2066 have been codified as a new art. VII, §§ 22-174, 22-175, under the title of "Medical Facilities."

of the hospital's probable impact on existing hospital and surgical services in the city, including permitted facilities not yet completed.

(c) The application for permit shall be accompanied by a filing fee equal to one percent of the capital cost of the proposed hospital, with a minimum fee of \$1,000.00 and a maximum fee chargeable hereunder of \$75,000.00. It is intended that the fee charged by this section shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over \$1,000.00, but less than \$75,000.00, shall be refunded to the applicant.

(d) Within 30 days after receiving a completed application for a permit, the city treasurer shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

(e) Any person may submit written evidence and argument regarding the proposed hospital to the city treasurer to be reviewed by city staff. Written materials shall be submitted to the city treasurer within 30 days after publication of the paid notice. The applicant shall have 45 days after publication of the paid notice to respond in writing to materials timely filed by other persons.

(f) No permit to establish a hospital shall be issued by the city treasurer unless, after reviewing the application and timely filed written materials and responses, the city council makes the following findings:

- (1) The proposed hospital will contribute to the orderly development of hospital and surgical services in the city;
- (2) The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the city, including permitted facilities not yet completed; and

(3) The proposed hospital can be adequately served by the city's existing utility systems and/or infrastructure.

(g) The city treasurer shall schedule the application for permit for consideration by the city council within 120 days after publication of the paid notice. A permit shall be effective for 36 months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

(h) The city staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

(Ord. No. 2066, § 1, 5-27-97)

Sec. 22-175. Ambulatory surgical care facilities.

(a) No new ambulatory surgical care facility shall be developed, either through construction or conversion of existing space, in the city, unless a permit therefor has been issued by the city treasurer.

(b) Before developing a facility for use as a newly-licensed ambulatory surgical care facility, the person proposing to operate the ambulatory surgical care facility shall apply to the city treasurer for a permit for the facility in addition to any other required approvals. The application for permit shall be in such form as the city treasurer shall prescribe and shall include a demonstration of the ambulatory surgical care facility's probable impact on the existing services in the city, including permitted facilities not yet completed.

(c) The application for permit shall be accompanied by a filing fee equal to one percent of the capital cost of the proposed ambulatory surgical care facility, with a minimum fee of \$1,000.00, and a maximum fee chargeable hereunder of \$75,000.00. It is intended that the fee charged by this section shall be used to cover the costs of the application evaluation. Any excess of fees col-

lected over costs incurred over \$1,000.00, but less than \$75,000.00, shall be refunded to the applicant.

(d) Within 30 days after receiving a completed application for a permit, the city treasurer shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical care facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

(e) Any person may submit written evidence and argument regarding the proposed ambulatory surgical care facility to the city treasurer to be reviewed by city staff. Written materials shall be submitted to the city treasurer within 30 days after publication of the paid notice. The applicant shall have 45 days after publication of the paid notice to respond in writing to materials timely filed by other persons.

(f) No permit to establish an ambulatory surgical care facility shall be issued by the city treasurer unless, after reviewing the application and timely filed written materials and response, the city council makes the following findings:

- (1) The proposed ambulatory surgical care facility will contribute to the orderly development of surgical services in the city;
- (2) The proposed ambulatory surgical care facility will not cause an undue financial or staffing hardship on any existing provider of essential surgical services in the city, including permitted facilities not yet completed; and
- (3) The proposed ambulatory surgical care facility can be adequately served by the city's existing utility systems and/or infrastructure.

(g) The city treasurer shall schedule the application for permit for consideration by the city council within 120 days after publication of the paid notice. A permit shall be effective for 36

months from the date of issue, during which time an applicant shall start construction or conversion work on the ambulatory surgical care facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

(h) The city staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

(Ord. No. 2066, § 2, 5-27-97)

Chapters 23-25

RESERVED