

FOOD TRUCKS

Definitions:

“**Food truck permittee**” means a person authorized to operate a food truck pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employees and agents.

“**Plaza**” means any uncovered city-owned real property or public right-of-way designated for pedestrian public use and not motor vehicle traffic or parking.

“**Public property**” means any real property owned, leased, operated, or controlled by the city, excluding that which is used by vehicular or pedestrian traffic and defined herein as public right-of-way. Public property includes plaza, as defined herein.

“**Public right-of-way**” means the area of real property in which the city has a dedicated or acquired right-of-way or easement interest in the real property. It shall include the area on, below, or above the present and future streets, alleys, avenues, roads, highways, parkways, boulevards, or sidewalks dedicated or acquired as right-of-way or easement.

Regulatory Provisions:

XX-XXXX – Food Trucks

Sec. 1. Food truck; permit required. No person shall operate a food truck in the Downtown Art and Entertainment District without a permit issued pursuant to this chapter.

Sec. 2. Food truck; applicable law. No person shall operate a food truck in violation of the applicable provisions of this code, state law, or federal law.

Sec. 3. Food truck; operation on private property. A food truck permittee shall not operate a food truck on private property:

1. without permission of the owner;
2. other than between the hours of 6:00 a.m. and the following 2:00 a.m.;
3. within 50 feet of the main entrance of a restaurant or outdoor dining space,;
4. within five feet of a driveway apron;
5. within five feet of a utility box, utility vault, accessibility ramp, or emergency call box;
6. within 15 feet of a fire hydrant;
7. within 25 feet of an outdoor merchandise area in which a permitted food truck is operating; or
8. within 100 feet of the designated location of a special event conducted pursuant to this chapter, unless authorized to participate in the special event by the special event organizers pursuant to section __-__.

Sec. 4. Food truck; operation on public property - designated food truck areas.

- (a) A food truck permittee shall not operate a food truck on public property except in a food truck parking area designated by the city manager pursuant to this section.

- (b) The city manager is authorized to temporarily designate, mark, or reserve designated food truck parking areas on public property, to be used only by a person with a food truck permit issued pursuant to this chapter. The city manager may establish additional application procedures and administrative requirements for permitting and operation of food trucks in designated food truck parking areas on public property.

Sec. 5. Food truck; hours of operation in the public right-of-way. A food truck permittee shall not operate a food truck in the public right-of-way other than between the hours of 10:00 p.m. and the following 2:00 a.m.

Sec. 6. Food truck; operation in the public right-of-way and public parking lots. A food truck permittee shall not operate a food truck upon any public right-of-way, or upon any public parking lot identified as a designated food truck parking area by the city manager pursuant to section ____:

1. outside of regularly designated public parking space(s);
2. while parked in a manner that occupies more than three (3) public parking spaces, if parked horizontally, or more than two (2) public parking spaces, if parked diagonally;;
3. with an operating serving window that faces or is angled toward street traffic;
4. within 50 feet of the main entrance of a restaurant, outdoor dining space, or operating food truck;
5. within five feet of a driveway apron;
6. within five feet of a utility box, utility vault, accessibility ramp, or emergency call box;
7. within 15 feet of a fire hydrant;
8. within 25 feet of an outdoor merchandise area in which a permitted food truck is operating;
9. within 100 feet of the designated location of a special event conducted pursuant to this chapter, unless authorized to participate in the special event by the special event organizers pursuant to section ___-___;
10. within or in a manner that prohibits or restricts access to a loading zone, accessible parking space, crosswalk, bus stop, bicycle lane, bicycle parking area, or other limited or designated use public parking space; or
11. in a manner that prohibits or restricts access to private property;

Sec. 7. General operational requirements applicable to food trucks.

- (a) A food truck permittee shall ensure that a designated person is present at all times to supervise the operation of a food truck.
- (b) A food truck permittee shall maintain at least six (6) feet of unobstructed clearance for pedestrian traffic on all sides of a food truck; if a food truck is parked diagonally in a diagonal public parking space, the food truck permittee shall be required to block vehicular access to the adjacent parking space on each side of the food truck, with at least two traffic cones used to block each parking space.
- (c) A food truck permittee shall not cause or allow a food truck to be driven over, or parked on, a curb or sidewalk.
- (d) A food truck permittee shall not sell, offer for sale, or solicit offers to purchase from any person in a motor vehicle.
- (e) A food truck permittee shall not allow a food truck to be stored, parked, or left overnight on public right-of-way or other public property.

- (f) A food truck permittee shall not allow a food truck to be connected to any electrical outlet or other power source owned by the city. No extension cord serving a food truck shall traverse the public right-of-way, and no power source shall create a hazard to the public health, safety or welfare.
- (g) In the event of a declared emergency or in a situation where exigent circumstances arise, a food truck permittee shall comply with all orders and directions of any duly authorized officer or agent of the city, or of any law enforcement officer.
- (h) A food truck permittee shall not use or have on a food truck any bell, siren, horn, bullhorn or loudspeaker or similar device to attract attention.
- (i) A food truck permittee shall not consume or be under the influence of alcoholic beverages or other drugs while operating a food truck.
- (j) A food truck permittee shall prominently display the permittee's current food truck permit and any other permits required to operate the food truck under applicable law, on the food truck.
- (k) A food truck permittee shall not utilize tables, chairs, freestanding signage, or audio amplification in connection with the operation of a food truck. All equipment shall be contained within or on the food truck, excluding required trash and refuse disposal equipment.
- (l) A food truck shall be open and subject to inspection at all reasonable times by authorized representatives of the city to ascertain that the food truck permittee is complying with the requirements of the permit, this code, and all applicable laws and regulations.

Sec. 8. Trash and refuse requirements.

- (a) A food truck permittee shall collect and dispose of all refuse associated with the food truck's operation and shall maintain clean and sanitary conditions in and around the food truck at all times.
- (b) A food truck permittee shall provide refuse and recycling containers within twenty-five (25) feet of the food truck, in sufficient number and capacity to properly store all refuse generated by the food truck's operations.
- (c) A food truck permittee shall not use public trash receptacles to dispose of refuse associated with the food truck. A food truck permittee shall display on the food truck a notice to customers requesting the use of the food truck permittee's designated refuse or recycling receptacles.
- (d) A food truck permittee shall, at all times, including but not limited to at the conclusion of daily operations at each permitted location, maintain a twenty-five (25) foot radius around the food truck that is clear of all refuse generated by the food truck and its operation.
- (e) A food truck permittee shall privately dispose of all liquid waste or grease and shall not cause or allow liquid waste or grease to be poured or discharged into any public facilities, including but not limited to any planter, storm drain, gutter pan, sidewalk or any other public property, or to be released or discharged into the city's sanitary sewer system.

Sec. 9. Insurance.

- (a) A food truck permittee shall carry an insurance policy that insures the permittee in an amount not less than five hundred thousand dollars (\$500,000.00) per single incident for any liability associated with the failure of the permittee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the operation of a food truck during the term of the permit and for as long as the permittee continues to operate a food truck following termination or expiration of the permit. Failure of a permittee to comply with these

requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the permittee of liability.

- (b) All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent “Bests” insurance guide, and admitted in the State of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.
- (c) A food truck permittee shall provide the city with a certificate of insurance listing the city as the certificate holder and evidencing compliance with the insurance requirements in this article. The city has the right to require complete certified copies of all insurance policies procured by a permittee pursuant to this article, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the city at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

DRAFT

HORSE-DRAWN VEHICLES AND PEDICABS

Definitions:

“**For hire**” means the provision of services, or the offering of services, in exchange for the payment of money or other consideration.

“**Horse-drawn vehicle**” means a wagon, coach, or other vehicle that is powered in whole or in part by one or more horses or mules and is used to carry passengers for hire.

“**Horse-drawn vehicle permittee**” means a person authorized to operate a horse-drawn vehicle pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employee’s and agents.

“**Pedicab**” means a bicycle-type vehicle, whether motorized, motor-assisted, or propelled solely by human power, which is designed to travel on three (3) or more wheels in contact with the ground and be operated by a person for the purpose of transporting, for hire, one (1) or more persons riding on seats or a platform.

“**Pedicab permittee**” means a person authorized to operate a pedicab pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employee’s and agents.

Regulatory Provisions:

XX-XXXX – Horse-drawn vehicles and pedicabs.

Sec. 1. Horse-drawn vehicles and pedicabs; permit required. No person shall operate a horse-drawn vehicle or pedicab in the Downtown Art and Entertainment District without a permit issued pursuant to this chapter.

Sec. 2. Horse-drawn vehicles and pedicabs; applicable law. No person shall operate a horse-drawn vehicle or pedicab in violation of the applicable provisions of this code, state law, or federal law.

Sec. 3. Horse-drawn vehicles; locations.

- (a) A horse-drawn vehicle permittee may operate a horse-drawn vehicle on the public right-of-way, subject to the provisions of this chapter.
- (b) The city manager is hereby authorized to designate or mark within the public right-of-way:
 1. horse-drawn vehicle restricted zones; and
 2. horse-drawn vehicle parking or waiting areas.
- (c) No person shall operate a horse-drawn vehicle on a sidewalk or public property, or in a horse-drawn vehicle restricted zone designated by the city manager.
- (d) No person shall park a horse-drawn vehicle on the public right-of-way or other public property unless such area is designated by the city manager as a horse-drawn vehicle parking or waiting area.
- (e) No person shall operate a horse-drawn vehicle on private property without permission of

the owner.

Sec. 4. Pedicabs; locations.

- (a) A pedicab permittee may operate a pedicab on the public right-of-way, subject to the provisions of this chapter.
- (b) The city manager is hereby authorized to designate within the public right-of-way:
 - 1. pedicab restricted zones; and
 - 2. pedicab parking or waiting areas.
- (c) No person shall operate a pedicab:
 - 1. on a sidewalk;
 - 2. on public property other than a public parking lot; or
 - 3. in a pedicab restricted zone designated by the city manager.
- (d) No person shall park a pedicab on the public right-of-way, except as follows:
 - 1. A pedicab may park in a designated pedicab parking or waiting area.
 - 2. A pedicab may park in an on-street parking stall, but not in excess of fifteen (15) consecutive minutes.
 - 3. A pedicab may park temporarily at the curb only as long as necessary for passengers to board and exit the vehicle.
 - 4. In all cases, pedicabs shall be parked in a location that does not impede pedestrian or vehicular traffic.
- (e) No person shall operate a pedicab on private property without permission of the owner.

Sec. 5. Horse-drawn vehicle and pedicab operational requirements.

- (a) No person shall operate a horse-drawn vehicle or pedicab unless such person is eighteen (18) years of age or older and possesses a valid Kansas driver's license.
- (b) Each horse-drawn vehicle and pedicab shall have a fare schedule affixed to its outside, matching the fare schedule on file with the city clerk. The fare schedule shall be printed in plain, legible letters and shall list the rates for carriage in such vehicle. The fare schedule must be printed in letters no less than two (2) inches in height.
- (c) It is unlawful to charge a fare in excess of the amount in the fare schedule posted pursuant to this section unless the vehicle operator has been hired to provide a guided tour or other additional services.
- (d) It is unlawful to charge a passenger a fare for riding on a horse-drawn vehicle or pedicab if such fare was not agreed upon with the passenger in advance of the service.
- (e) The driver of a horse-drawn vehicle or pedicab shall not:
 - 1. operate the vehicle in such a manner as to cause a collision, obstruction, or interference with orderly vehicular or pedestrian traffic;
 - 2. smoke, eat, or wear headphones while carrying passengers;
 - 3. solicit patronage in an amplified tone of voice or in any manner to annoy or obstruct the peace or movement of persons, or follow any person for the purpose of soliciting patronage;
 - 4. be under the influence of alcohol or drugs while operating the vehicle;
 - 5. allow the occupancy of the vehicle to exceed the rated seating capacity of the vehicle; or
 - 6. stop the vehicle on a street to load or unload passengers, if the posted speed limit on such street is greater than 30 miles per hour.

- (f) No person shall smoke or consume alcohol while riding on a horse-drawn vehicle or pedicab.
- (g) In order to promote the public health, safety, and general welfare, or during special events, the police chief shall have the authority to designate areas of Downtown Art and Entertainment District in which the operation of horse drawn vehicles and pedicabs are restricted or prohibited. No area shall be designated as a restricted zone in excess of ninety (90) consecutive days without prior approval of the city commission.
- (h) A horse-drawn vehicle permittee and pedicab permittee shall prominently display the horse-drawn vehicle or pedicab permit, as applicable, on the horse-drawn vehicle or pedicab, as applicable.
- (i) A horse drawn vehicle and pedicab shall be subject to inspection by the city at such intervals as may be established by the city manager to assure the continued compliance with the foregoing requirements and the maintenance of safe operating conditions.

Sec. 6. Horse drawn vehicle operational requirements.

- (a) A horse-drawn vehicle permittee shall not operate a horse-drawn vehicle:
 - 1. other than in the traffic lane closest to the curb on any public street, except when turning;
 - 2. other than in compliance with all applicable local traffic laws, ordinances, and regulations; horse-drawn vehicles shall be considered a motor vehicle as defined in the Standard Traffic Ordinance;
 - 3. with a passenger riding on any part of the vehicle while in motion, other than seated on a designated seat;
 - 4. with a passenger that is demonstrating disorderly conduct while in the vehicle.
- (b) While on any public right-of-way, a horse shall be equipped with a waste-catching diapering apparatus approved by the city. Any waste or debris resulting from the horse or vehicle shall be removed immediately by the driver or other attendant, sealed in an airtight bag and treated with odor reducing chemicals, if necessary to eliminate odor, and discarded in a solid waste container.
- (c) A horse-drawn vehicle permittee shall prominently display the horse-drawn vehicle permit on the horse drawn vehicle.

Sec. 7. Horse drawn vehicles; animal welfare and use.

- (a) A horse-drawn vehicle permittee shall at all times be responsible for ensuring the humane care and treatment of each horse used in connection with a horse-drawn vehicle.
- (b) A horse-drawn vehicle permittee shall prepare and maintain a written log for each horse utilized in the operation of a horse-drawn vehicle, which shall include accurate information showing the daily start and stop times of service for the animal, the time and duration of each break in service for the animal, the total hours the animal has worked for the day and week, and compliance with the grooming requirements of this article.
- (c) A horse-drawn vehicle permittee shall ensure that each horse utilized to operate a horse-drawn vehicle:
 - 1. has its hooves properly shod and trimmed, utilizing rubber coated or rubber heel pads or open steel barium tip shoes, to aid in the prevention of slipping;
 - 2. is given a fifteen (15) minute rest period at the end of two (2) consecutive in-harness hours, and potable water shall be made available during the rest period;

3. is not utilized to pull a vehicle carrying more passengers than such vehicle is designed to carry by the manufacturer, or to pull a vehicle with fewer animals than provided for by such design;
4. is not worked more than eight (8) hours in a twenty-four (24) hour period, or more than forty-eight (48) hours in a seven (7) day week;
5. is not worked more than four (4) total hours in a twenty-four (24) hour period in temperatures exceeding 90 degrees Fahrenheit if the humidity exceeds twenty percent (20%); in such weather conditions, horses shall be given a fifteen (15) minute rest period at the end of every labor hour, with potable water made available during the rest period;
6. is not worked at a speed faster than a slow trot;
7. is not touched with a whip, other than by light touch;
8. is blanketed when unsheltered, if the temperature is 35 degrees Fahrenheit or less, after appropriate cool down;
9. is not worked with any equipment that causes the horse to experience an impairment of vision, other than blinders;
10. is groomed daily;
11. is examined prior to use in a horse-drawn vehicle business and every six (6) months thereafter, at the permittee's expense, by a licensed veterinarian, who shall certify that the horse is in good health and proper condition, and of the appropriate body weight to perform such work. An updated health certificate signed by the examining veterinarian shall be filed with the city clerk and the supervisor of animal control after each exam. Horses shall be examined and treated for internal parasites at intervals recommended by the examining veterinarian. The certificate shall also show that the horse has been immunized appropriately, including immunization annually against rabies, and has had a Coggins test with a negative result; and
12. is equipped with harnesses and bits that are used and maintained in accordance with the manufacturing design.

Sec. 8. Pedicab operational requirements. No person shall operate a pedicab:

- (a) with any passenger that is not seated on or astride a permanent seat attached to the pedicab while the pedicab is in motion;
- (b) that is carrying more passengers than the number of seats available, except that persons under five (5) years of age are excluded from this limitation if each child is sitting in the lap of an adult;
- (c) in a manner that results in damage to public property;
- (d) that is equipped with a siren or whistle;
- (e) while knowingly permitting a person to attach a bicycle, coaster, sled, roller skates, skateboard, scooter or other rolling device to the pedicab;
- (f) without having at all times at least one (1) hand on the handlebars of the pedicab;
- (g) on a street without a designated bicycle lane when the street has a posted speed limit of 30 miles per hour or greater, unless for purposes of crossing the street;
- (h) on a street or public property that has been ordered closed by the city;
- (i) while using a wireless communication device, except through the use of a hands-free device;
- (j) to load or unload passengers on the traffic side of a street or while occupying any

intersection or crosswalk.

Sec. 9. Equipment and design requirements; horse-drawn vehicles.

- (a) A horse-drawn vehicle shall have the following information permanently painted or stenciled, or magnetically affixed, to the vehicle, with at least two (2) inch lettering:
 - 1. The permittee's telephone number, and name, logo, or insignia on the back and both sides of the vehicle, which shall be legible from the rear of the vehicle a distance of at least 50 feet and from the sides a distance of at least 30 feet; and
 - 2. the permittee's vehicle number, as assigned by the city clerk, on both sides of the vehicle.
- (b) All vehicles shall be registered on an annual basis with the city clerk on or before the first day of January each year.
- (c) Horse-drawn vehicles shall be equipped with the following:
 - 1. brakes, taillights, turn signals, and a slow-moving vehicle sign on the rear of the vehicle;
 - 2. lights which shall emit light to the front side, which shall be visible from a distance of 500 feet; and
 - 3. a 50% bleach and 50% water compound, which shall be poured over horse urine so as to break down and eliminate accumulated agents and odors.

Sec. 10. Equipment and design requirements; pedicabs. A pedicab permittee shall ensure that each pedicab:

- (a) has the following information permanently painted or stenciled, or magnetically affixed, to the vehicle, with at least two (2) inch lettering:
 - 1. The permittee's telephone number, and name, logo, or insignia on the back and both sides of the vehicle, which shall be legible from the rear of the vehicle a distance of at least 50 feet and from the sides a distance of at least 30 feet; and
 - 2. the permittee's vehicle number, as assigned by the city clerk, on both sides of the vehicle;
- (b) is of single frame construction, kept in a reasonably clean and safe condition, and not have exposed rust, ripped upholstery or fabric, or exposed wood that is not painted and in good condition;
- (c) has passenger seat belt(s), consisting of either one seat belt for each passenger or one seat belt that covers all passengers, unless the pedicab is designed and intended to have the passengers assist in powering the vehicle by pedaling from a platform seat;
- (d) has a lamp on the front that illuminates a person or vehicle at least 500 feet to the front during nighttime;
- (e) has a red reflector on the rear, visible from at least 300 feet to the rear when the reflector is directly in front of lawful motor vehicle's upper beams during nighttime;
- (f) has a lamp on the rear that emits a red light visible from at least 500 feet to the rear during nighttime;
- (g) has a braking system capable of stopping the pedicab;
- (h) has a mirror located to reflect to the operator a view of the road at least 200 feet to the rear;
- (i) is not be wider than 54 inches at its widest point or longer than ten (10) feet at its longest point;
- (j) has functioning electric turn signal lamps that indicate an intention to turn by flashing lights

showing to the front and rear of the vehicle, which are capable of being seen at a distance of at least 500 feet in normal sunlight; and

- (k) has a “slow moving vehicle” triangle emblem attached and displayed on the rear of the vehicle in compliance with K.S.A. 8-1717 and amendments thereto.

Sec. 11. Training requirements; horse-drawn vehicles. No person shall operate a horse-drawn vehicle without having completed at least forty (40) hours of training, which training shall include, but is not limited to:

- (a) learning the proper method of fitting the bridle, bit harness, and padding to a horse and hitching and unhitching a properly harnessed horse;
- (b) learning the proper method of maintaining and cleaning harnesses, bridles, bits, and padding;
- (c) riding with a driver experienced in livestock handling who drives the first twenty-four (24) hours of training, to observe the proper handling and driving of a horse drawn vehicle;
- (d) training in emergency situations for unexpected animal behavior; and
- (e) driving under the supervision of an experienced driver during the last sixteen (16) hours of training.

Sec. 12. Insurance.

- (a) Each horse-drawn vehicle permittee and pedicab permittee shall carry an insurance policy that insures the permittee in an amount not less than five hundred thousand dollars (\$500,000.00) per single incident for any liability associated with the failure of the permittee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the operation of a horse-drawn vehicle or pedicab, as applicable, during the term of the permit and for as long as the permittee continues to operate a horse-drawn vehicle or pedicab, as applicable, following termination or expiration of the permit. Failure of a permittee to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the permittee of liability.
- (b) All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent “Bests” insurance guide, and admitted in the State of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.
- (c) Each horse-drawn vehicle permittee and pedicab permittee shall provide the city with a certificate of insurance listing the city as the certificate holder and evidencing compliance with the insurance requirements in this article. The city has the right to require complete certified copies of all insurance policies procured by a permittee pursuant to this article, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the city at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

TEMPORARY SIDEWALK DINING AND MERCHANDISE AREAS

Definitions:

“Adjoining sidewalk or plaza” means the area of sidewalk or plaza located within the area defined by the projection of the angle of the exterior walls of a building. If a building has adjoining sidewalk or plaza on connecting sides, the area between the two resulting segments of adjoining sidewalk or plaza may be included in the “adjoining sidewalk or plaza” for purposes of determining the outdoor merchandise area.

“Extended sidewalk or plaza” means the area of sidewalk or plaza connected to and uninterrupted extending from the adjoining sidewalk or plaza.

“Merchandise” means any goods or commodities for use or consumption.

“Outdoor merchandise area” means that portion of the sidewalk or plaza which has been approved by the city for outdoor merchandising pursuant to a downtown activity permit issued by the city under this chapter.

“Outdoor merchandising” means displaying, exhibiting, selling, or offering for sale or consumption merchandise by the owner of a building, or the owner’s tenant, on a specified area of sidewalk and/or plaza that adjoins the building. The term outdoor merchandising shall not include sidewalk dining.

“Outdoor merchandise area permittee” means a person authorized to operate an outdoor merchandise area pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employee’s and agents.

“Restaurant” shall have the same meaning as provided in section 42-755.

“Sidewalk dining” means the consumption of food, beverages (including, but not limited to, alcoholic liquor beverages or cereal malt beverages), or both, by patrons of a restaurant outdoors on a specific area of a sidewalk and/or plaza set aside for that purpose.

“Sidewalk dining area” means that portion of the adjoining sidewalk or plaza and, if applicable, the extended sidewalk or plaza which has been approved by the city for major or minor sidewalk dining pursuant to a sidewalk café license agreement or a downtown activity permit, as applicable.

“Minor sidewalk dining” means the consumption of food or beverages, but excluding alcoholic liquor beverages or cereal malt beverages, by patrons of a restaurant outdoors on a specific area of a sidewalk and/or plaza set aside for that purpose, which does not involve: (1) installation of any fixture in or on the sidewalk dining area; or (2) the placement or display of any object in the sidewalk dining area other than during the regular hours of operation for the permittee’s adjacent interior restaurant.

“Minor sidewalk dining area permittee” means a person authorized to operate a minor sidewalk dining area pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employee’s and agents.

Regulatory Provisions:

XXXXX - Outdoor Merchandise Area.

Sec. 1. Outdoor merchandising and minor sidewalk dining; approval required. No person shall permit or engage in outdoor merchandising or minor sidewalk dining in the Downtown Art and Entertainment District without first obtaining a permit issued pursuant to this chapter.

Sec. 2. Alcoholic liquor and cereal malt beverages prohibited. No person shall sell, serve or allow the consumption of alcoholic liquor or cereal malt beverages in an outdoor merchandise area or minor sidewalk dining area.

Sec. 3. Restaurants; sidewalk dining license agreement required. Notwithstanding any other provision in this article, no owner or manager of a restaurant shall permit sidewalk dining, other than minor sidewalk dining, without first obtaining a sidewalk café license agreement as provided in section _____.

Sec. 4. Authorized locations.

- (a) No person shall operate an outdoor merchandise area or minor sidewalk dining area other than within an adjoining sidewalk or plaza and, if applicable, the extended sidewalk or plaza. An outdoor merchandise area or minor sidewalk dining area shall not include extended sidewalk or plaza unless written permission is obtained from all owners of record (including all equitable owners, if any) and all tenants, if any, of the real property that immediately abuts or adjoins the extended sidewalk or plaza.
- (b) No person shall operate an outdoor merchandise area or minor sidewalk dining area that extends more than:
 - 1. six (6) feet into the adjoining sidewalk area from a building; or
 - 2. sixteen (16) feet into the adjoining plaza area from a building.
- (c) No more than two (2) outdoor merchandise areas or minor sidewalk dining areas may be operated in connection with a single building, structure, or property address.

Sec. 5. Placement of objects in outdoor merchandise area.

- (a) An outdoor merchandise area permittee or minor sidewalk dining area permittee may be permitted to place or display objects in the outdoor merchandise area or minor sidewalk dining area, as applicable, subject to the provisions of this section.
- (b) Objects placed or displayed in an outdoor merchandise area or minor sidewalk dining area shall:
 - 1. not be attached or affixed to the sidewalk or other public property;
 - 2. be located and operated in compliance with the terms of the applicable permit;
 - 3. be located so that there is a minimum of six (6) feet of unobstructed clearance for pedestrian traffic on the sidewalk and plaza, or the minimum required by this code or applicable law, whichever requirement is greater;
 - 4. not interfere with or impede vehicular traffic;

5. be made stable and without sharp edges, protrusions, or other features which may be hazardous to the public;
 6. be secured so as to not become dislodged by wind;
 7. not block regulatory signs, crosswalks, or intersections;
 8. be sufficiently illuminated during times of low light in order to provide for safe pedestrian passage alongside or through the outdoor merchandise area or minor sidewalk dining area;
 9. be a minimum height of twenty-eight (28) inches tall, or of sufficient size and height to comply with applicable law, whichever is greater, so that safe pedestrian traffic in and around the outdoor merchandise area or minor sidewalk dining area is not impeded; and
 10. not exceed six (6) feet in height.
- (c) Except as otherwise provided in section _____, an outdoor merchandise area permittee shall not place or display objects in an outdoor merchandise area other than during the regular hours of operation for the permittee's adjacent interior retail or service business, and all objects placed or displayed shall be moved inside a building or structure at the end of each day of operations and during inclement weather, including but not limited to heavy rain, wind, ice, or snow.

Sec. 6. Use subordinate to special events. An outdoor merchandise area and a minor sidewalk dining area shall at all times be subject and subordinate to the use of the sidewalk or plaza by the city or a special event permittee, in connection with activities related to a special event permitted under this chapter. The city manager may close specific areas of sidewalk or plaza for use in connection with an outdoor merchandise area or minor sidewalk dining area, if deemed necessary to accommodate the use of such sidewalk or plaza by the city, a special event permittee, or the public in connection with activities related to a special event.

Sec. 7. Operational requirements.

- (c) An outdoor merchandise area permittee or a minor sidewalk dining area permittee shall not operate an outdoor merchandise area or minor sidewalk dining area, as applicable, other than during the hours of operation for the permittee's adjacent interior retail or service business.
- (d) In the event of a declared emergency or in a situation where exigent circumstances exist, an outdoor merchandise area permittee or a minor sidewalk dining area permittee shall comply with all orders and directions of any duly authorized officer or agent of the city, or of any law enforcement officer.
- (e) An outdoor merchandise area permittee or a minor sidewalk dining area permittee shall collect and dispose of all refuse associated with the outdoor merchandise area or minor sidewalk dining area, as applicable, and shall maintain clean and sanitary conditions in and around the outdoor merchandise area or minor sidewalk dining area at all times.
- (f) An outdoor merchandise area permittee or a minor sidewalk dining area permittee shall be responsible for repairing any damage to city property caused by use or operation of the outdoor merchandise area.
- (g) An outdoor merchandise area permittee or a minor sidewalk dining area permittee shall not sell or display any live animal or alcoholic beverage within the outdoor merchandise area or minor sidewalk dining area.
- (h) An outdoor merchandise area permittee or a minor sidewalk dining area permittee may utilize live or recorded amplified music in an outdoor merchandise area, but only in compliance with section 25-132.

- (i) An outdoor merchandise area permittee or a minor sidewalk dining area may host a street performer or pushcart vendor within an outdoor merchandise area or a minor sidewalk dining area, subject to compliance with the provisions of this chapter. The permittee shall require or ensure the collection of all applicable sales tax for any sales by a street performer or pushcart vendor conducting taxable sales within the permittee's outdoor merchandise area or minor sidewalk dining area.
- (j) An outdoor merchandise area permittee or a minor sidewalk dining area permittee shall prominently display the permit authorizing the outdoor merchandise area or minor sidewalk dining area in the window of the permittee's adjoining building, or if no such window exists, on the permittee's adjoining building.

Sec. 8. Condition of outdoor merchandise area; interest in the real property.

- (a) The city makes no representations with respect to the outdoor merchandise area or minor sidewalk dining area, or its condition. A downtown activity permit grants a permittee permission to use sidewalk and/or plaza in the outdoor merchandise area or minor sidewalk dining area in its present condition, "as is," without any warranties, representations, or assurances from the city.
- (b) While an outdoor merchandise area permittee or a minor sidewalk dining area permittee may control the outdoor merchandise area or minor sidewalk dining area to the extent necessary to conduct activities authorized by this article or the applicable downtown activity permit, a permittee shall not be considered to be a real property tenant or lessee. Nothing in this article and regulations adopted pursuant thereto, or a downtown activity permit, shall be construed to convey any interest in the real property comprising the outdoor merchandise area or minor sidewalk dining area except a limited and revocable license.

Sec. 9. Insurance.

- (a) An outdoor merchandise area permittee or a or minor sidewalk dining area permittee shall carry an insurance policy that insures the permittee in an amount not less than five hundred thousand dollars (\$500,000.00) per single incident for any liability associated with the failure of the permittee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the use of the sidewalk or plaza during the term of the permit and for as long as the permittee continues to operate an outdoor merchandise area or a minor sidewalk dining area following termination or expiration of the permit. Failure of a permittee to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the permittee of liability.
- (b) All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "Bests" insurance guide, and admitted in the State of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.
- (c) An outdoor merchandise area permittee or minor sidewalk dining area permittee shall provide the city with a certificate of insurance listing the city as the certificate holder and evidencing compliance with the insurance requirements in this article. The city has the right to require complete certified copies of all insurance policies procured by a permittee pursuant to this article, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the city at least thirty

(30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

DRAFT

SIDEWALK VENDING

Additional/Revised Definitions:

“**Merchandise**” means any goods or commodities for use or consumption.

“**Sidewalk vending permittee**” means a person authorized to operate as a sidewalk vendor pursuant to a downtown activity permit issued by the city under this chapter, and such person’s employees and agents.

“**Pushcart**” means a wheeled cart which may be moved by a person without the assistance of a motor and which is designed and used in an outdoor area for displaying, keeping or storing any food, beverages, or other merchandise for sale by a vendor.

“**Vend or vending**” shall mean to sell or barter food, beverages, or other merchandise or services, or to require someone to pay a fee or to set, negotiate, or establish a fee before providing food, beverages, or merchandise or services, even if characterized as a donation. The term vending shall not include operations conducted from a food truck.

“**Sidewalk vendor**” shall mean a person who engages in or carries on the business of vending upon a public sidewalk.

Regulatory Provisions:

XX-XXXX – Sidewalk vending.

Sec. 1. Sidewalk vending; permit required. No person shall operate as a sidewalk vendor in the Downtown Art and Entertainment District without first obtaining a permit issued pursuant to this chapter.

Sec. 2. Sidewalk vending; applicable law. No person shall operate as a sidewalk vendor in violation of the applicable provisions of this code, state law, or federal law.

Sec. 3. Sidewalk vending; pushcart required. No person shall operate as a sidewalk vendor in the Downtown Art and Entertainment District unless such operations are conducted from a pushcart authorized by the city pursuant to this chapter.

Sec. 4. Pushcarts; operation on private property. A sidewalk vending permittee shall not operate a pushcart on private property:

- (a) without permission of the owner; and
- (b) unless authorized under the applicable zoning district regulations.

Sec. 5. Pushcarts; operation on public property or right-of-way. A sidewalk vending permittee shall not operate a pushcart:

- (a) in a street;
- (b) within ten (10) feet of any building entrance or exit, fire hydrant, bicycle rack, trash receptacle, or pedestrian crosswalk;
- (c) within twenty-five (25) feet of:

1. a sidewalk dining area;
 2. an outdoor merchandise area, unless authorized to participate in the outdoor merchandise area by the outdoor merchandise area permittee;
 3. a street performer;
 4. a pushcart operated by another sidewalk vending permittee; or
- (d) within fifty (50) feet of a restaurant for all pushcarts selling food products
- (e) in a manner that prohibits or restricts access to private property.

Sec. 6. Setup and removal on public property or right-of-way.

- (a) No person shall operate a pushcart at any location on public property or in the public right-of-way, or within 100 feet from any such location, for more than three (3) total hours during any six (6) hour period.
- (b) No person shall reserve a space on public property or in the public right-of-way for operation of a pushcart. A sidewalk vending permittee shall abandon the location of each pushcart operation at the end day of operation.

Sec. 7. General operational requirements applicable to pushcarts.

- (a) A sidewalk vending permittee shall not operate a pushcart:
1. outside of the Downtown Arts and Entertainment District;
 2. other than between the hours of 7:00 a.m. and the following 2:00 a.m.;
 3. without a designated person present at all times to supervise the operation of the pushcart;
 4. with any person partially or fully enclosed by, or operating within, the pushcart;
 5. without maintaining at least six (6) feet of unobstructed clearance for pedestrian traffic on all sides of a pushcart, or the minimum distance required by applicable law, whichever is greater;
 6. within 100 feet of the designated location of a special event conducted pursuant to this chapter, unless authorized to participate in the special event by the special event permittee pursuant to section ___-___;
 7. within or in a manner that prohibits or restricts access to a loading zone, accessible parking space, crosswalk, bus stop, bicycle lane, bicycle parking area, or other limited or designated use public parking space; or
 8. in such a manner as to cause a collision, obstruction, or interference with orderly vehicular or pedestrian traffic.
- (b) A sidewalk vending permittee shall not cause or allow a pushcart to be driven over a curb in order to situate the pushcart.
- (c) If a pushcart attracts a crowd sufficient to obstruct the public right-of-way or other public property, such that the passage of the public through the area is blocked, any duly authorized officer or agent of the city, or any law enforcement officer may disperse a portion of the crowd as necessary to ensure the free passage of pedestrians through the area. If the blocking of passage persists, the police officer may require the sidewalk vending permittee to relocate to a different area.
- (d) A sidewalk vending permittee shall not allow a pushcart to be stored, parked, or left overnight on public right-of-way or other public property.
- (e) A sidewalk vending permittee shall not sell, offer for sale, or solicit offers to purchase from any person in a motor vehicle.
- (f) A sidewalk vending permittee shall not allow a pushcart to be connected to any electrical outlet without express permission of the owner. For those power outlets owned by the city

permission shall not be granted. No extension cord serving a pushcart shall traverse the public right-of-way, and no power source shall create a hazard or nuisance to the public health, safety or welfare.

- (g) In the event of a declared emergency or in a situation where exigent circumstances exist, a sidewalk vending permittee shall comply with all orders and directions of any duly authorized officer or agent of the city, or of any law enforcement officer.
- (h) A sidewalk vending permittee shall not consume or be under the influence of alcoholic beverages or illegal drugs while operating a pushcart.
- (i) A sidewalk vending permittee shall not use or have on a pushcart any bell, siren, horn, bullhorn or loudspeaker or similar device to attract attention.
- (j) A pushcart shall be open and subject to inspection at all reasonable times by authorized representatives of the city to ascertain that the pushcart and the sidewalk vending permittee are in compliance with the requirements of the pushcart permit, this code, and all applicable laws and regulations.

Sec. 8. Equipment and design requirements applicable to pushcarts.

- (a) A pushcart operated by a sidewalk vending permittee shall:
 - 1. not exceed ten (10) feet in height, inclusive of any canopy, umbrella, or transparent enclosure;
 - 2. not exceed ten (10) feet in length;
 - 3. not exceed five (5) feet in width;
 - 4. have at least two functioning wheels (2
 - 5. be equipped with an attached refuse receptacle;
 - 6. be kept in a reasonably clean and safe condition;
 - 7. be constructed of durable materials suitable for outdoor use, and not have exposed rust, ripped upholstery or fabric, or exposed wood that is not painted or coated with a glossy finish;
 - 8. have stability features such as brakes or chocks to firmly fix the location of the pushcart at the place of operation;
 - 9. have prominently displayed on the pushcart a copy of the pushcart permit, and any other permits required to operate the pushcart under applicable law;
 - 10. have a detachable cart tongue, hitch, or handle, which shall be stored while the pushcart is stationary and in operation; and
 - 11. not be operated while attached to or located inside of a trailer or any other enclosed vehicle.
- (b) A sidewalk vending permittee shall not utilize tables, chairs, freestanding signage, or audio amplification in connection with the operation of a pushcart. All equipment shall be contained within or on the pushcart, excluding required trash and refuse disposal equipment.

Sec. 9. Trash and refuse requirements.

- (a) A sidewalk vending permittee shall collect and dispose of all refuse associated with the pushcart's operation and shall maintain clean and sanitary conditions in and around the pushcart at all times.
- (b) A sidewalk vending permittee shall provide refuse and recycling containers in sufficient number and capacity to properly store all refuse generated by the operation of the pushcart and be located within the 25 ft radius.

- (c) A sidewalk vending permittee shall not use public trash receptacles to dispose of refuse associated with a pushcart. A sidewalk vending permittee shall display on the pushcart a notice to customers requesting the use of the sidewalk vending permittee's designated refuse or recycling receptacles.
- (d) A sidewalk vending permittee shall, at all times, including but not limited to at the conclusion of daily operations at each location, maintain a twenty-five (25) foot radius around the pushcart that is clear of all refuse generated by the pushcart and its operation.
- (e) A sidewalk vending permittee shall privately dispose of all liquid waste or grease and shall not cause or allow liquid waste or grease to be poured or discharged into any public facilities, including but not limited to any planter, storm drain, gutter pan, sidewalk or any other public property, or to be released or discharged into the city's sanitary sewer system.

Sec. 10. Insurance.

- (a) A sidewalk vending permittee shall carry an insurance policy that insures the permittee in an amount not less than five hundred thousand dollars (\$500,000.00) per single incident for any liability associated with the failure of the permittee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the operation of a pushcart during the term of the permit and for as long as the permittee continues to operate a pushcart following termination or expiration of the permit. Failure of a permittee to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the permittee of liability.
- (b) All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "Bests" insurance guide, and admitted in the State of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.
- (c) A sidewalk vending permittee shall provide the city with a certificate of insurance listing the city as the certificate holder and evidencing compliance with the insurance requirements in this article. The city has the right to require complete certified copies of all insurance policies procured by a permittee pursuant to this article, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the city at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

Street Performers

Proposed New Definitions:

“Perform, Performing, or Performance” shall mean to engage in any of the following activities on public right-of-way or public property: playing musical instruments; singing; dancing; acting; pantomiming; puppeteering; juggling; reciting; engaging in magic; creating visual art in its entirety; presenting or enacting a play, work of music, work of art, physical or mental feat, or other constitutionally protected entertainment or form of expression. The terms Perform, Performing, Performance or Performances shall not include:

- i. The provision of personal services;
- ii. The completion or other partial creation of visual art, other than creation and completion of the visual art in its entirety;
- iii. The creation of visual art which is mass produced or produced with limited variation; or
- iv. The creation of handcrafts or other objects that do not communicate a message, idea, or concept to others and are mass produced or produced with limited variation.

“Street Performer” shall mean a person who performs. Indicia of being a performer include, but are not limited to, setting up performance equipment, staging or orienting the performance towards the public, performing in the same location for an extended period of time, performing in public over multiple days, seeking voluntary contributions through the passing around of a hat or leaving open an instrument case or other receptacle, and soliciting donations after a performance.

“Vend or vending” shall mean to sell or barter food, beverages, or other merchandise or services, or to require someone to pay a fee or to set, negotiate, or establish a fee before providing food, beverages, or merchandise or services, even if characterized as a donation. The term vending shall not include operations conducted from a food truck.

“Vending street performer” shall mean a street performer who vends.

“Vending street performer permittee” shall mean a person authorized to act as a vending street performer pursuant to a downtown activity permit issued by the city under this chapter.

Regulatory Provisions:

Sec. 1. Performance in the Downtown Arts and Entertainment District. A person shall not be required to obtain a permit under this chapter for purposes of performing as a street performer in accordance with the provisions of this article. No person shall perform as a street performer within the Downtown Arts and Entertainment District except in accordance with the provisions of this article.

Sec. 2. Street performer; applicable law. No person shall perform as a street performer in violation of the applicable provisions of this code, state law, or federal law.

Sec. 3. Donations permitted; fees and charges prohibited.

- (a) A street performer may solicit or receive money or other things of value during or in connection with a performance and may make available a receptacle for tips or donations, so long as the street performer otherwise complies with the provisions of this article and does not engage in conduct that violates the prohibition on aggressive begging as set forth in section 25-142.
- (b) It is unlawful for a street performer to charge a fee for a performance within the Downtown Arts and Entertainment District, unless such performance occurs in connection with a special event that is authorized by the city under _____. For purposes of this section, the charging of a fee for entertainment or for a performance includes the act of requiring a person to pay for the entertainment or performance, whether in advance or after the entertainment or performance concludes, but does not include the act of soliciting or requesting tips or donations, the act of making available a receptacle for tips or donations, or the act of receiving tips or donations.

Sec. 4. Vending by street performers; permit required.

- (a) A street performer shall not engage in vending in the Downtown Art and Entertainment District without a permit issued pursuant to this chapter.
- (b) A vending street performer permittee shall not vend any items except as follows:
 - 1. A vending street performer permittee may vend the following items directly connected to a performance, which have been created, written or composed by the vending street performer, provided that all such items are displayed within or on a case or display not exceeding forty (40) inches in length, thirteen (13) inches in width, or three (3) inches in depth or height: books, audio, video or other recordings of their performance, paintings, photographs, prints, sculptures, or any other item that is inherently communicative and is of nominal value or utility apart from its communication.
 - 2. A street performer may vend any item authorized pursuant to a special event permit issued by the city under _____, or in the capacity of a sidewalk vending permittee authorized to vend as a sidewalk vendor pursuant to this chapter.

Sec. 5. Allowed locations.

- (a) A street performer may perform on any sidewalk or plaza within the Downtown Arts and Entertainment District, subject to the provisions of this article, unless such sidewalk or plaza is closed pursuant section ____.
- (b) A street performer shall not perform within a distance of fifty (50) feet of any other street performer then performing.

Sec. 6. Obstruction of passage or access.

- (a) A street performer shall not block the passage of the public through any public right-of-way or public property, and shall at all times maintain at least six (6) feet of unobstructed clearance for pedestrian traffic through the public right-of-way or public property, as applicable, or the minimum distance required by applicable law, whichever is greater. If a crowd gathers to see or hear a street performer such that the passage of the public through public right-of-way or public property is blocked, a police officer may disperse a portion of the crowd as necessary to ensure the free passage of pedestrians through the public right-

of-way or public property. If the blocking of passage persists, the police officer may require the street performer to relocate to a different area.

- (b) A street performer shall not obstruct any public street, sidewalk, or building or any other place of public access in violation of section 25-162.

Sec. 7. Exclusion of public areas. The city manager may close a specific area of public right-of-way or public property to performances in the case of an emergency, or due to public health, safety, or welfare concerns. No area of public right-of-way or public property shall be closed to performances in excess of ten (10) days, unless such closure is ordered by the city commission due to public health, safety, or welfare concerns following a public hearing.

Sec. 8. Placement and removal of objects.

- (a) A street performer shall not place objects on the ground adjacent to the performance except the following objects, which shall be permitted:
 - 1. one (1) sign not larger than eleven (11) inches by seventeen (17) inches;
 - 2. equipment integral to the performance, which may include items such as a chair, easel, music stand, stool, or a container to accept donations; and
 - 3. a case or container used by the street performer to transport such allowed objects.
- (b) A street performer shall remove all objects from the public right-of-way or public property, as applicable, during breaks in the performance and immediately after the performance ends.
- (c) A street performer shall remove all trash and other debris from the public right-of-way or public property that was used for a performance immediately after the performance ends.

APPLICATION AND PERMITTING

Definition:

“**Downtown activity permit**” means a permit issued by the city to a person pursuant to this chapter, which authorizes such person to:

- (i). operate a food truck;
- (ii). operate a horse-drawn vehicle;
- (iii). operate a pedicab;
- (iv). operate an outdoor merchandise area;
- (v). operate a minor sidewalk dining area;
- (vi). operate a pushcart;
- (vii). operate as a vending street performer; or
- (viii). maintain or place a minor downtown encroachment.

Regulatory provisions:

XX-XXXX. Application.

Sec. 1. Application; form. Each applicant seeking to obtain a downtown activity permit to:

- (i). operate a food truck;
- (ii). operate a horse-drawn vehicle;
- (iii). operate a pedicab;
- (iv). operate an outdoor merchandise area;
- (v). operate a minor sidewalk dining area;
- (vi). operate a pushcart;
- (vii). operate as a vending street performer; or
- (viii). maintain or place a minor downtown encroachment,

shall apply for a permit in writing on such form(s) as the city clerk may prescribe.

Sec. 2. Non-vending street performers; no permit required. A person shall not be required to obtain a downtown activity permit for purposes of performing as a street performer within the Downtown Art and Entertainment District in accordance with the provisions of this chapter, unless such person operates as a vending street performer.

Sec. 3. Application fee. Each applicant seeking to obtain a downtown activity permit pursuant to this article shall pay a non-refundable fee to the city clerk in an amount determined pursuant to section 2-2.

Sec 4. General application requirements. Each application for a downtown activity permit shall be complete and signed by the applicant or the applicant’s authorized representative or agent, who shall in each case be at least eighteen (18) years of age, and shall include or be accompanied by the information required by sections ____ through ____, as applicable, along with the following general information:

1. the name, address, and telephone number of the applicant;
2. a description of each proposed downtown activity for which the application is being submitted;
3. a completed application for any other permit or approval required by this code or applicable law;
4. such other information as is required by this chapter or reasonably required by the city to determine the applicant's eligibility and qualifications for a downtown activity permit in accordance with the criteria, standards, and qualifications set forth in this chapter.

Sec. 5. Food trucks; additional requirements. In addition to the general information required by section ____, an application to operate a food truck shall contain:

1. A copy of the applicant's current food establishment license.
2. A copy of the city fire marshal's approved inspection report, evidencing a satisfactory inspection of the food truck by the city's fire marshal within the preceding twelve (12) months.
3. A copy of a certificate of insurance as prescribed by this chapter establishing that the applicant has procured appropriate liability insurance and that such insurance is current.

Sec. 6. Horse-drawn vehicles and pedicabs; additional requirements. In addition to the general information required by section ____, an application to operate a horse-drawn vehicle or pedicab shall contain:

1. The name of, and a copy of a valid Kansas driver's license for, each person that will operate the horse-drawn vehicle or pedicab, as applicable, under the permit for which the application is being submitted.
2. A copy of a certificate of insurance, as prescribed by this chapter, establishing that the applicant has procured appropriate liability insurance and that such insurance is current.
3. A statement of the applicant's qualifications and prior experience in relation to the transportation of passengers.
4. The number of vehicles to be operated under the permit, and with respect to each vehicle, the following information, as applicable: make, model, year, body style, vehicle identification number, seating and weight capacity, and physical condition.
5. Depiction of the company's insignia or logo to be used to designate the applicant's vehicles.
6. A digital photograph of each vehicle the applicant seeks a permit to operate, in a format approved by the city clerk.
7. A copy of the applicant's fare schedule.
8. A signed statement confirming that the applicant and each of the applicant's drivers have not been convicted of three (3) or more violations of the provisions of this chapter within the two (2) year period preceding the date of the application.

Sec. 7. Outdoor merchandise areas and minor sidewalk dining areas; additional requirements. In addition to the general information required by section ____, an application to operate an outdoor merchandise area or minor sidewalk dining area shall contain:

1. If the applicant seeks to serve food within the outdoor merchandise area or minor sidewalk dining area, a copy of any food establishment license(s) required by applicable law.
2. A copy of a certificate of insurance, as prescribed by this chapter, establishing that the applicant has procured appropriate liability insurance and that such insurance is current.
3. If the applicant seeks to operate an outdoor merchandise area or a minor sidewalk dining area on extended sidewalk or plaza, written permission of all owners of record (including all equitable owners, if any) and all tenants, if any, of the real property that immediately abuts or adjoins the extended sidewalk or plaza.
4. A site plan showing:
 - i) Property lines and, if applicable, any building setbacks of the subject property.
 - ii) An elevation drawing.
 - iii) The square footage of the outdoor merchandise area or minor sidewalk dining area;
 - iv) A drawing or diagram showing the configuration of all objects within the outdoor merchandise area or minor sidewalk dining area and all surface obstructions within fifteen (15) feet of the proposed outdoor merchandise area or minor sidewalk dining area.
 - v) A drawing or diagram showing the width of unobstructed walkway abutting or adjoining the outdoor merchandise area or minor sidewalk dining area.
 - vi) Points of access to the outdoor merchandise area or minor sidewalk dining area.
 - vii) Points of access to the applicant's building and any other building immediately adjacent to the proposed outdoor merchandise area or minor sidewalk dining area.
 - viii) Pictures or renderings of all objects to be placed within the outdoor merchandise area or minor sidewalk dining area.

Sec. 8. Pushcarts; additional requirements. In addition to the general information required by section ____, an application to operate a pushcart shall contain:

1. A copy of a certificate of insurance, as prescribed by this chapter, establishing that the applicant has procured appropriate liability insurance and that such insurance is current.
2. If the applicant seeks to serve food from the pushcart, a copy of the applicant's current food establishment license(s).
3. Plans, pictures, or renderings showing the dimensions of each pushcart and demonstrating that each pushcart complies with the standards of this chapter.

Sec. 9. Minor downtown encroachments; additional requirements. In addition to the general information required by section ____, an application to place or maintain a minor downtown encroachment shall contain plans, pictures, or renderings showing:

- i) A drawing or diagram showing the configuration of all proposed minor downtown encroachments and all surface obstructions within fifteen (15) feet of the proposed minor encroachments.
- ii) A drawing or diagram showing the width of unobstructed walkway abutting or adjoining the proposed minor downtown encroachments.

- iii) Pictures or renderings of all objects to be placed within the outdoor merchandise area or minor sidewalk dining area.

Sec. 10. Issuance or denial of permit; appeals.

- (a) The city clerk shall process each valid and administratively complete application for a downtown activity permit within ten (10) business days.
- (b) No downtown activity permit shall be approved for any person who is ineligible pursuant to the provisions of this chapter or regulations adopted pursuant to this chapter.
- (c) The city clerk shall issue the requested permit if a complete application complying with this chapter and all adopted policies and procedures is filed and all of the following conditions are met;
 - 1. The applicant is eligible and qualified for a downtown activity permit in accordance with the criteria, standards, and qualifications set forth in this chapter;
 - 2. The applicant pays all required fees and agrees to comply with all conditions of the permit;
 - 3. The proposed activity does not pose an unreasonable risk to public health or safety or the physical integrity of public property or the public right-of-way; and
 - 4. The applicant has not had a downtown activity permit revoked by the city for any reason within twelve (12) months prior to the submission of the application.
- (d) Any applicant aggrieved by the denial of a permit application or who objects to restrictions or conditions included in the permit may appeal the matter to the governing body by submitting a request for the appeal, in writing, to the city clerk. An appeal shall be considered by the governing body at a regular meeting to be held within fifteen (15) days of receipt of the appeal. The governing body may affirm or overrule the decision of the city clerk, or approve the application with conditions. Any applicant aggrieved by the governing body's decision may seek judicial review in a manner provided by law.

Sec. 11. Duration of initial permit; renewal.

- (a) Any permit issued pursuant to this article shall be for a term of the remainder of the calendar year in which the permit is issued.
- (b) A downtown activity permit may be renewed by making application to the city clerk on application forms provided for that purpose. Downtown activity permits shall expire on December 31 of each calendar year, and renewal applications for such permits shall be submitted between November 1 and December 10.
- (c) Upon timely application and review as provided for a new downtown activity permit, a downtown activity permit issued under the provisions of this article shall be renewed by issuance of a new downtown activity permit in the manner provided herein.
- (d) If the application for renewal of a downtown activity permit is not made during the time provided herein, the permit shall on December 31 and a new application shall be required.

Sec. 12. Permits subject to ordinances and regulations; indemnification.

- (a) All permits issued under this chapter shall be subject to the city ordinances and the rules and regulations adopted hereunder. A permittee shall be bound by such rules, regulations, and ordinances as fully as though the same were inserted in such permits.

(b) To the fullest extent permitted by law, a permittee shall defend, indemnify and hold harmless the city, its agents, representatives, officers, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees and court costs) attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, to the extent that such claims, damages, losses, and expenses relate to, arise out of, or are alleged to have resulted from the acts, errors, or omissions of a permittee, its officers, employees, agents, servants, invitees, patrons, or contractors in connection with the use or occupancy of public right-of-way or public property under a downtown activity permit.

Sec. 13. Permits to be exhibited. Any person claiming to have a permit issued under this chapter shall produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

Sec. 14. Transferability.

A downtown activity permit issued under this chapter shall not be assignable or transferable under any circumstances from one person to another person.

Suspension, Revocation and Enforcement

Article ____ - Suspension, revocation, and enforcement.

Sec. 1. Permit suspension or revocation. Any downtown activity permit issued under this chapter may be revoked, or temporarily suspended for up to ninety (90) days, by the city manager, after notice and hearing, for any of the following reasons:

1. Violation of or failure to comply with any provision of this chapter;
2. The permittee has become ineligible to obtain a downtown activity permit for the permitted activity under the provisions of this chapter; or
3. Fraud, misrepresentation or false statement contained in the application for the permit;

The city manager may immediately suspend a permit, pending the suspension or revocation hearing, if the public health, safety, or welfare is best served by such a temporary suspension.

Sec. 2. Notice and hearing.

- (a) Notice of a hearing for suspension or revocation of a downtown activity permit pursuant to this chapter shall be provided in writing, and shall set forth specifically the grounds for the proposed suspension or revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.
- (b) The city manager shall conduct a hearing within thirty (30) days after notice of the hearing is mailed. Not later than fifteen (15) days after the hearing is conducted, the permittee shall be notified in writing of the city manager's decision. A permittee's failure to attend the city manager's hearing, after notice of the hearing is mailed, shall not preclude the city manager from suspending or revoking a downtown activity permit.

Sec. 3. Appeals.

- (a) Any person aggrieved by the action or decision of the city manager to suspend or revoke a downtown activity permit under this article shall have the right to appeal such action or decision to the city commission within fifteen (15) days after the notice of the action or decision of the city manager has been mailed to the person.
- (b) An appeal to the city commission shall be taken by filing with the city clerk a written statement setting forth the grounds for the appeal.
- (c) An appeal shall be considered by the city commission at a regular meeting to be held within thirty (30) days of receipt of the written appeal.
- (d) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- (e) The city commission may affirm, overrule, or modify the decision of the city manager. Any person aggrieved by the city commission's decision on appeal may seek judicial review in a manner provided by law.

Sec. 4. Enforcement, violations and penalties.

- (a) It shall be unlawful for any person to violate any of the provisions of this article. Upon conviction thereof, the general penalty and continuing violations section set forth in section 1-10 shall apply.

- (b) The city shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter, and these remedies shall be in addition to the penalties described above.

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