

Memorandum Regarding Council Bill No. 2024-22: An Ordinance Amending the City's regulations related to Business and Solicitor Licenses.

Background:

The City of Nixa currently requires that all businesses and all solicitors acquire a license before engaging in commercial activities within the City. These regulations are found in Chapter 12 of the Nixa City Code. City staff have recently completed a review of Chapter 12 and, because of such review, are proposing amendments to the City's business and solicitor license regulations.

Analysis:

In addition to language clean up, the amendments proposed by Council Bill No. 2024-22 contain three categories of substantive modifications which are the focus of this memorandum.

First, staff is requesting that the Code's current moral turpitude standard be modified. Currently, the Code prohibits the issuance of a solicitor license if the applicant has been convicted of a crime of moral turpitude within the last seven years. The amendments proposed in the Council Bill would modify this standard to instead prohibit the issuance of a solicitor license if the applicant has been convicted, within the last seven years of a crime involving a sex offense, violent acts against persons or property, fraud, theft, and the making of false statements.

Specifying the specific character of crimes that would prohibit the issuance of a solicitor license is a clearer approach as compared to the current moral turpitude standard.

Second, many of the proposed amendments to Chapter 12 are intended to formalize many of the City's current practices related to business and solicitor licenses and to provide the City more enforcement tools. For example, the proposed amendments now explicitly detail the grounds for revocation of a license issued under Chapter 12.

Third, the proposed amendments attempt to address the provisions of Section 71.990 RSMo. related to home-based businesses. This statute prohibits the City from requiring so-called "no-impact home-based businesses" to obtain a business license. Instead, the amendments would require those engaged in a no-impact home-based business to provide the City Clerk with their Missouri retail sales license, if they have one.

Recommendation:

Staff recommends approval of Council Bill 2024-22.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

Attachments:

Council Bill No. 2024-22.

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER**
2 **12, ARTICLE II, AND CHAPTER 2, ARTICLE IV, SECTION 2-151 OF THE NIXA CITY**
3 **CODE FOR THE PURPOSE OF MODIFYING THE CITY’S REGULATIONS RELATED**
4 **TO BUSINESS AND SOLICITOR LICENSES.**

5
6 **WHEREAS** the City requires certain individuals and business entities to obtain
7 licenses prior to engaging in certain business activities within the City limits; and

8
9 **WHEREAS** City staff have reviewed the City’s current business license regulations
10 and have drafted proposed amendments to these regulations; and

11
12 **WHEREAS** the purpose of these amendments is to update the regulations to better
13 reflect current practices of City staff and to update the language and procedures related
14 to the City’s business and soliciting licensing regulations; and

15
16 **WHEREAS** this Council Bill, if approved, would modify the City Code to provide
17 updated procedures and regulations related to the City’s business and soliciting license
18 codes; and

19
20 **WHEREAS** the City Council desires to modify the City Code as set forth herein.

21
22 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
23 **NIXA, AS FOLLOWS, THAT:**

24
25 **SECTION 1:** Chapter 12, Article II, of the Nixa City Code is hereby amended by
26 repealing said Article in its entirety and adopting in lieu thereof a new Article II, which said
27 Article shall read as follows (Explanation: Language in bold-face type (e.g., **thus**) is
28 language to be added. Language in bold-faced brackets (e.g., **[thus]**) is not enacted
29 and is intended to be omitted or deleted.):

30
31 **ARTICLE II. – ~~[BUSINESS]~~ LICENSES.**

32
33 **DIVISION 1. – GENERAL PROVISIONS.**

34
35 **Sec. 12-21. – Definitions.**

36
37 **The following words, terms, and phrases, when used in this Article, shall**
38 **have the meaning ascribed to them in this Section, unless the context clearly**
39 **indicates a different meaning:**

40
41 ***Associated business* means a person that engages another to perform the**
42 **activities of a solicitor as an employee, independent contractor, servant, or agent.**

43
44 ***Applicant* means any person applying for a license pursuant to this Article.**
45

46 **Business** means engaging in a trade, vocation, profession, or occupation
47 which involves selling or soliciting, at wholesale or retail, sales of any good, ware,
48 merchandise, or service; or as a practice in the conduct of such trade, vocation,
49 profession, or occupation to, make, cause to be made, or add value to any
50 wholesale or retail goods, wares, or merchandise. One act thereof shall constitute
51 engaging in a business for purposes of this definition.

52
53 **Licensee** means a person or business that is issued a license pursuant to
54 this Article.

55
56 **Person** means any individual, sole proprietor, partnership, corporation,
57 company, association, joint stock association, duly constituted trustees, receivers,
58 heirs, administrator, or assignee, or other business organization.

59
60 **Solicitor** means any person who attempts to make personal contact with a
61 resident of the City at their residence without a prior specific appointment and for
62 the purpose of attempting to sell a good or service for profit.

63
64 [~~Sec. 12-21. – Business licenses required.~~]

65
66 [~~No person, sole proprietor, partnership, corporation or other business~~
67 ~~organization shall carry on a business at a physical location within the City of Nixa without~~
68 ~~securing a license as set out in this chapter and paying the fee for same established in~~
69 ~~Section 2-151 of the Nixa City Code.~~]

70
71 **Sec. 12-22. – Revocation of license – Administrative hearing and review – Appeals.**

72
73 (a) **Revocation of license – authorized.** A license issued pursuant to this Article
74 may be revoked after a hearing in which the basis for such revocation is
75 established, to the satisfaction of the hearing officer, by a preponderance of the
76 evidence.

77
78 (b) **Notice of hearing.** When the city clerk, based on information and belief,
79 determines that the basis for revocation of a license has been established, the
80 city clerk shall provide to the Licensee a notice of hearing by U.S. regular mail,
81 postage prepaid, to the mailing address of the Licensee at least 10 calendar
82 days prior to the hearing date or by posting the Notice of Hearing at a
83 conspicuous place at the business's premises at least 10 calendar days prior to
84 the hearing date.

85
86 (c) **Notice of hearing – contents.** The notice of hearing shall contain the date, time,
87 and place of the hearing, a statement as to the basis for revocation, a statement
88 that the Licensee may appear, present evidence, and be represented by legal
89 counsel, and a statement that failure to appear may result in the issuance of an
90 order revoking Licensee's license.

91

92 (d) *Hearing officer – designated.* The city administrator, or their authorized
93 designee, is designated as the hearing officer for the purposes of this Article.

94
95 (e) *Hearing procedure.* The following procedure shall be followed when conducting
96 any hearing pursuant to this Article:

97
98 (1) The hearing officer shall make or cause to be made a record of the
99 proceedings by audio recording. The recording shall be made available to
100 any party to the proceeding upon request. Any party who desires a transcript
101 of the proceeding to be produced shall be responsible for the costs of the
102 transcription.

103
104 (2) The hearing officer need not apply the rules of evidence, but upon objection
105 by a party, shall rule on whether the evidence presented is relevant, reliable,
106 and more probative than prejudicial.

107
108 (f) *Written decision.* Following the hearing, the Hearing Officer shall issue a written
109 decision setting forth their findings of fact and conclusions of law. The city clerk
110 shall send the written decision to the parties by U.S. Mail, 1st class, postage
111 prepaid.

112
113 (g) *Appeals.* Any party aggrieved by the decision of the hearing officer may appeal
114 that decision to the circuit court in accordance with RSMo. Chapter 536, et seq.
115 All decisions of the hearing officer shall be final 30 days after the mailing of the
116 written decision.

117
118 [~~Sec. 12-22. – Nonapplicability of article to agricultural or horticultural products, etc.~~]

119
120 [~~This article shall not apply to agricultural or horticultural products grown or produced
121 in the state, when the same are offered for sale or exchange by the producer thereof, nor
122 to their agents or employees; nor shall this article apply to motor vehicles used and
123 operated by established merchants or by persons who have paid an ad valorem tax in the
124 city for the current year, equal to or more than the prescribed privilege tax levied in this
125 article; nor to those merchants of the city in delivering goods, wares or merchandise sold
126 at their establishment or place of business within the limits of the city.~~]

127
128 **Sec. 12-23. – Record of licenses issued.**

129
130 The city clerk shall keep a complete record of all licenses issued pursuant
131 to this Article. Such records shall detail the name and address of the licensee, the
132 nature of the business of the licensee, the dates of issuance and expiration of such
133 a license, and whether such license was revoked prior to its expiration.

134
135 [~~Sec. 12-23. – Separate license for each place of business.~~]

136

137 ~~[A separate license shall be obtained for each place of business operated by a licensee~~
138 ~~under this chapter.]~~

139
140 **Sec. 12-24. – Violations.**

141
142 **In addition to any other remedies provided in this Article, violations of the**
143 **provisions of this Article, or violations of any order of the hearing officer, shall be**
144 **punished in accordance with Section 1-9 of the Nixa City Code.**

145
146 ~~[Sec. 12-24. – Duration of licenses; proration of license fees, etc.]~~

147
148 ~~[The term of the license issued pursuant to this chapter shall be for one (1) year,~~
149 ~~beginning January 1 and ending December 31 of the same year. Businesses failing to~~
150 ~~submit an application for license renewal by March 31 will be deemed late and shall be~~
151 ~~charged a late fee. All license fees shall be paid in full and in advance.]~~

152
153 ~~[Sec. 12-25. – Display of licenses.]~~

154
155 ~~[All licenses issued under this chapter shall be displayed in a conspicuous place~~
156 ~~in the place of business authorized to be conducted and shall be removed after the~~
157 ~~expiration.]~~

158
159 ~~[Sec. 12-26. – Engaging in more than one occupation at the same place of business.]~~

160
161 ~~[Every person engaged in more than one occupation, where such occupations are~~
162 ~~operated as one business under the same management, and at the same location, shall~~
163 ~~pay an individual license for each part of such business.]~~

164
165 ~~[Sec. 12-27. – Record of licenses issued.]~~

166
167 ~~[The city shall keep a complete record of all licenses issued under this chapter~~
168 ~~showing the name and address of the licensee, the nature of the license, and the dates~~
169 ~~of issue and expiration of such license.]~~

170
171 ~~[Sec. 12-28. – Itinerant merchant.]~~

172
173 ~~[No person shall exercise, carry on, or engage in selling, exchanging or trading~~
174 ~~personal property, goods, wares, or merchandise from a motor vehicle in the city without~~
175 ~~first having obtained a license therefor from the city. The license required by this section~~
176 ~~shall be issued by the city clerk upon payment of a fee as established by ordinance.]~~

177
178 ~~[Sec. 12-29. – Collection and accounting for taxes collected under article.]~~

179
180 ~~[The license taxes provided for in this article shall be collected by the finance director and~~
181 ~~accounted for as other license taxes. The license required by said sections shall not be~~
182 ~~issued until the amount prescribed therefor shall have been paid to the finance director,~~

183 and no license shall be assigned or transferred. All licenses shall be approved and signed
184 by the city clerk.]

185

186 **DIVISION 2. – BUSINESS LICENSES.**

187

188 **Sec. 12-30. – Business license required – General provisions related thereto.**

189

190 (a) No person shall engage in or operate a business without first securing a
191 business license and paying the fee for such license pursuant to Section 2-151
192 of the Nixa City Code. The fee for said license shall not be prorated.

193

194 (b) *No-impact home-based businesses.* A “no-impact home-based business” as
195 such term is defined in R.S.Mo. Section 71.990 is not required to apply for,
196 register for, or obtain any permit, license, variance or prior approval to operate
197 said business. A “no-impact home based business” shall provide the city clerk
198 with the business’s Missouri retail sales license or provide a certificate of no
199 sales tax due issued by the Missouri Department of Revenue on a form to be
200 furnished by the city clerk.

201

202 (c) *Certain businesses exempt by law.*

203

204 (1) Occupations and professions exempt from obtaining a business license as
205 set forth in R.S.Mo. Section 71.620 shall not be required to obtain a business
206 license under this Division.

207

208 (2) Farmers or producers selling produce raised by them or from any person or
209 persons in the employ of such farmer or producer are not required to obtain
210 a business license under this Division.

211

212 (3) *No license for mere delivery.* No license shall be required of any person for
213 any mere delivery of any good purchased or acquired in good faith from such
214 person or business at a regular place of business outside the city where
215 there is no intent by such person to evade the provisions of this Article.

216

217 (d) All business licenses issued under this Division shall be issued and signed by
218 the city clerk, or their authorized designee.

219

220 (e) *Separate license required for each place of business.* A separate business
221 license shall be required for each place of business operated within the City.

222

223 (f) *Duration of business licenses and renewal.*

224

225 (1) The term of any business license issued pursuant to this Division shall be
226 for one year, beginning on January 1 and ending December 31 of the same
227 year.

228

229 (2) Applicants may apply for the renewal of a business license for the next
230 succeeding year starting on November 1 of the current term of their business
231 license provided that the Applicant pays the business license renewal fee
232 established in Section 2-151 of the Nixa City Code and the application is
233 submitted to the city clerk by January 31 of the year for which renewal is
234 sought. Applications for renewal submitted after January 31 but before
235 March 31 shall be charged the late fee established in Section 2-151 of the
236 Nixa City Code.

237
238 (3) Persons failing to submit a renewal of a business license by March 31 shall
239 be required to submit a new business license application.
240

241 (g) *Display of licenses.* All licenses issued under this Division shall be displayed in
242 a conspicuous location, visible to the public, at the location of the business
243 covered by the license. All licenses issued pursuant to this Division shall be
244 removed by the Licensee upon failure to renew said business license by March
245 31, as provided in Section 12-30(f) above.
246

247 (h) *Engaging in more than one occupation at the same location.* Every person
248 engaged in more than one occupation, where such occupations are operated as
249 one enterprise under the same management, and at the same location, shall
250 obtain an individual business license for each occupation.
251

252 (i) *Business license not to be assigned or transferred.* No business license shall
253 be assigned or transferred. In the event that a business is transferred to a
254 different person, the new owner shall complete an application for a business
255 license prior to operating or engaging in the business.
256

257 [~~Sec. 12-30. – Sales tax payment required.~~]
258

259 [~~Before a business license can be issued under this chapter, the applicant for a
260 business license must be current in the payment of all sales tax to the director of revenue.~~]
261

262 **Sec. 12-31. – Application for business license – Requirements.**
263

264 (a) Applications for business licenses shall be made to the city clerk by a sworn
265 application. The application form shall be furnished by the city clerk. Said
266 application shall include at least the following:
267

268 (1) The name of the business and a description of the business, including the
269 type of good or service to be sold or provided by the business.
270

271 (2) The physical address of the business’s location, the appropriate mailing
272 address for the business, the business telephone number, and any other
273 contact information requested on the application;
274

275 (3) The name, physical address, mailing address, and business telephone
276 number of the applicant;

277
278 (4) The name, physical address, mailing address, and business telephone
279 number of the person responsible for day-to-day operations of the business;

280
281 (5) The business’s Missouri sales tax number and a Missouri retail sale license
282 as required by state law or R.S.MO. Section 144.083, or an exemption
283 certificate or other proof of exemption from the Missouri sales tax law;

284
285 (6) If applicable, a certificate of no sales taxes due issued by the Missouri
286 Department of Revenue dated within 45 days of the date of application;

287
288 (7) If the business is any entity other than a sole proprietorship, then a copy of
289 the business’s organization filing with the Missouri Secretary of State
290 showing the business name. If the business is organized under the laws of
291 another state, then a copy of the filing with the Missouri Secretary of State
292 showing the applicant is authorized to lawfully conduct business in
293 Missouri; and

294
295 (8) Any other information reasonably required by the city clerk to aid in the
296 enforcement of this Article or any other provision of the Nixa City Code.

297
298 (b) *Licensee to update information – when.* If any of the information or
299 circumstances provided to the city clerk as part of the application for a business
300 license changes during the term of the license, the licensee shall advise the city
301 clerk of the change in information or circumstances within 20 days of such
302 change.

303
304 [~~Sec. 12-31. – Effect of conviction or finding of guilt, fault or liability of proscribed activity.~~]

305
306 [~~(a) For purposes of this section, the term "proscribed activity" shall include the following:~~]

307
308 [~~(1) Those acts prohibited by RSMo 567.010—567.040 or 567.080;~~]

309
310 [~~(2) Those acts found to constitute violations of the provisions of RSMo 285.525—~~
311 ~~285.550, chs. 407 or 416, including but not limited to those acts and practices~~
312 ~~described in 15 CSR 60-8.010 through 15 CSR 60-8.090, inclusive, of the code of~~
313 ~~state regulations;~~]

314
315 [~~(3) Those acts found under other provisions of federal or state statutory or common~~
316 ~~law to constitute unfair pricing, fraudulent, unreasonable or unconscionable trade~~
317 ~~or sales practices, price gouging or price fixing with respect to the sale of goods,~~
318 ~~labor and/or services; or]~~

319

320 ~~[(4)Those acts found to constitute violations of the criminal code of the state (RSMo~~
321 ~~556.011 et seq.)]~~

322
323 ~~[(b)Any person licensed pursuant to this chapter who is convicted or found guilty with a~~
324 ~~suspended imposition of sentence for the commission of a proscribed activity, as~~
325 ~~defined in this section, by a court of competent jurisdiction, and who uses a city license~~
326 ~~in any way whatsoever as a means to assist the person to engage in a proscribed~~
327 ~~activity or who allows his employee or agent to engage in such proscribed activity shall~~
328 ~~be subjected to revocation or suspension of his city license in accordance with the~~
329 ~~procedure set forth in section 12-32.]~~

330
331 ~~[(c)Any person who has failed to secure such license shall be prohibited from securing~~
332 ~~the required license if the city clerk determines that such person was convicted of a~~
333 ~~proscribed activity by a court of competent jurisdiction and did use the activity required~~
334 ~~to be licensed to assist the person to engage in a proscribed activity; except such~~
335 ~~person may, upon the license being denied, request a hearing pursuant to section 12-~~
336 ~~32 and shall be entitled to a hearing in accordance with the procedures set out in this~~
337 ~~chapter.]~~

338
339 **Sec. 12-32. – Denial of application for business license – when.**

340
341 **(a) An application for a business license shall be denied for any of the following**
342 **reasons:**

- 343
344 **(1) The application is incomplete or insufficient information has been provided;**
345
346 **(2) The application contains any false statements;**
347
348 **(3) The zoning designation for the business’s location does not authorize the**
349 **activities of the business;**
350
351 **(4) Failure of the business to obtain an occupancy permit for the business prior**
352 **to application for a business license;**
353
354 **(5) The business or any person listed on the application owes outstanding**
355 **financial obligations to the City; or**
356
357 **(6) Failure to pay the business license fee required by Nixa City Code Section 2-**
358 **151.**

359
360 **(b) When an application is denied, the city clerk shall provide written notice of the**
361 **reason for denial by 1st class regular U.S. mail, postage prepaid, to the applicant**
362 **at the address listed in the application. This notice shall be deemed to have**
363 **been received 3 calendar days after the mailing date. Said notice may also be**
364 **given by posting the notice at the proposed location of the business, which shall**
365 **be deemed to have been received on the day of posting.**

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(c) A party aggrieved by the denial of a business license application may request administrative review by the hearing officer by filing a request for a hearing with the city clerk within 15 calendar days after receipt of the notice provided in subparagraph (b) above. The hearing shall be held in accordance with the provisions of Section 12-22 of the Nixa City Code.

~~[Sec. 12-32. Revocation or denial of license.]~~

~~[(a) All business licenses issued pursuant to this chapter shall be issued by the city clerk upon the condition that the licensee complies with this section. No licensee shall cause, maintain or permit a nuisance as prohibited by chapter 14 in the conduct of the business for which the license is issued or on land where the business is licensed, nor shall any licensee operate the business in violation of any provision of this Code that applies to the operation of that business. Any person who operates a business licensed pursuant to this chapter in violation of any provision of this Code that applies to the operation of the business, or who maintains, causes or permits a nuisance prohibited by Chapter 14 in the conduct of the business, or on land where the business is licensed shall be subject to having the business license revoked or not renewed by the city clerk in accordance with procedures set forth in this chapter. The city clerk shall not issue a business license when the city clerk has reason to believe that the issuance of the license will result in the operation of the business in violation of this Code or that the operation of the business will cause or result in a nuisance or that a nuisance is on the land where the business is to be licensed. Upon the city clerk's making a determination that there may be a violation of this section, the city clerk shall notify the applicant in writing that the city clerk will not issue the license, that the city clerk will not renew the license, or that the city clerk is revoking the license, stating the reasons for the city clerk's decision.]~~

~~[(b) If the city clerk determines that the application for a license is not to be granted or if city clerk determines not to renew the license, then the notice to the person requesting the license or renewal thereof shall give the applicant at least five days' notice to request an informal meeting with the city clerk. The city clerk shall, if a hearing is requested within that time, hold an informal meeting with the applicant, informing the applicant of the basis upon which the decision was made, and shall attempt to informally resolve the matter. After such informal meeting, the city clerk may reverse the decision or may reaffirm the decision in writing. Thereafter, the applicant may request a public hearing by filing a written request with the city clerk within 15 days of the date of the city clerk's decision. At the public hearing, a hearing officer appointed by the city administrator shall hear evidence, determine the facts upon the evidence presented at the hearing, and render a decision.]~~

~~[(c) If the city clerk takes action to revoke a license, he shall provide the licensee with notice in writing concerning the basis upon which the revocation is made, setting forth a date for an informal meeting with the licensee, giving the licensee at least five days' notice. If the licensee does not appear at the informal meeting or if the licensee~~

412 ~~appears and the matter is not resolved, the city clerk shall set a public hearing by~~
413 ~~giving the licensee at least ten days' written notice of the public hearing. At the public~~
414 ~~hearing, a hearing officer appointed by the city administrator shall hear evidence,~~
415 ~~determine the facts based upon the evidence presented at the hearing, and render a~~
416 ~~decision.]~~

417
418 ~~[(d)The hearing officer shall have all the powers set forth in section 12-33 and shall~~
419 ~~conduct the hearing in accordance with the procedures set forth in that section. The~~
420 ~~hearing officer shall determine whether or not there is a basis for not issuing the~~
421 ~~license, not renewing the license or revoking the license. The decision of the hearing~~
422 ~~officer and the right to appeal his decision shall be in accordance with section 12-34.~~
423 ~~All notices for the purpose of this section shall be deemed to occur two days after the~~
424 ~~date the notice is placed in the United States mail, postage prepaid.]~~

425
426 ~~[(e)After the decision of the city clerk or the hearing examiner becomes final, the penalty~~
427 ~~under this chapter for operating a business without a license shall be a fine up to~~
428 ~~\$500.00 per day of each day the person operates the business without a license. The~~
429 ~~city may, in addition to the penalties set forth in this section, seek civil penalties in a~~
430 ~~court of competent jurisdiction of \$500.00 per day for each day a person operates a~~
431 ~~business without a business license.]~~

432
433 **Sec. 12-33. – Revocation of business license – when.**

434
435 **(a) A business license issued pursuant to this Division may be revoked for any of**
436 **the following reasons:**

- 437
438 **(1) False statements, material misrepresentations, or omissions were made on**
439 **the application, renewal, or other communications related to a business**
440 **license;**
441
442 **(2) The application or application for a renewal of a business license contains**
443 **false or incomplete information;**
444
445 **(3) The licensed business activities are not authorized within the zoning**
446 **designation for the business's location;**
447
448 **(4) Failure of the business to maintain or acquire a valid occupancy permit for**
449 **the business's physical location;**
450
451 **(5) The licensee is delinquent in the payment of any taxes, fees, or other**
452 **financial obligations due to the city, state of Missouri, or any political**
453 **subdivision thereof;**
454
455 **(6) The licensee, or any agents or employees thereof, refused to allow, or**
456 **interfered with, any reasonable inspection of the business's premises by**

457 authorized city, county, or state governmental officials charged with
458 enforcing regulations related to the operation of the business;

459
460 (7) Violations of this Chapter by any agents or employees of licensee;

461
462 (8) The existence of chronic unsanitary conditions, noise, disturbances, excess
463 law enforcement response or calls, or other conditions at, in, or attributable
464 to the business premises that causes or tends to create a public nuisance
465 which may injuriously affect the public health, safety, or welfare of others,
466 or which unnecessarily affects the adequate allocation of public safety
467 resources;

468
469 (9) Repeatedly or purposefully permitting, allotting, or causing any activity on
470 the business’s premises which violate any ordinance, rule, law, regulation,
471 health code, or safety code of the city, county, state, or federal government;

472
473 (10) The licensee’s activities become unlawful or are prohibited by any code,
474 rule, regulation, or law of the city, state, or federal government;

475
476 (11) The issuance of the business license was in error or in violation of this
477 Article;

478
479 (12) The Business premises is condemned, declared a fire hazard, a nuisance,
480 a dangerous building, or declared unsafe for occupancy by any competent
481 government authority;

482
483 (13) Failure of the licensee to remain current in the payment of taxes owed to
484 or collected by the Missouri Department of Revenue; or

485
486 (14) Any other violations of the Nixa City Code by the licensee.

487
488 (b) Revocation procedures shall comply with the provisions of Section 12-22 of the
489 Nixa City Code.

490
491 [~~Sec. 12-33. – Hearing.~~]

492
493 [~~If a person requests a hearing under the provisions of section 12-32, the city clerk
494 shall set a date for such hearing, giving the person at least seven days' written notice of
495 the hearing. The hearing officer appointed by the city administrator shall hear the case
496 and make a determination in accordance with the provisions of RSMo ch. 536. The city
497 attorney, on behalf of the city, or any party to the proceeding may request that the city
498 clerk issue subpoenas for witnesses or subpoenas duces tecum to be issued for any
499 book, paper, record or memorandum, which records shall be produced at such hearing.
500 The administrative hearing officer shall cause a record of the case to be kept and copies
501 shall be made available to any interested person upon the payment of a fee. Decisions of
502 the hearing officer shall be binding and shall be subject to appeal by either party, including~~]

503 ~~the city. Such hearing need not be conducted according to the rules of evidence. Any~~
504 ~~relevant matter may be admitted and considered by the hearing officer if it is the sort of~~
505 ~~evidence upon which reasonable persons are accustomed to rely in the conduct of~~
506 ~~serious affairs. Objections to evidence shall be noted and the hearing officer shall rule on~~
507 ~~such objection.]~~

508
509 ~~[Sec. 12-34. Decisions to be in writing: appeals.]~~

510
511 ~~[The decision of the hearing officer under this division shall be in writing and shall be~~
512 ~~subject to appeal under RSMo ch. 536. All decisions of the hearing officer shall be final~~
513 ~~decisions 30 days after the mailing or personal service of the decision.]~~

514
515 **DIVISION 3. SOLICITOR LICENSES.**

516
517 **Sec. 12-40. – Solicitor license required – General provisions related thereto.**

518
519 **(a) No person shall act as a solicitor without first securing a solicitor license and**
520 **paying the fee for such license pursuant to Section 2-151 of the Nixa City Code.**
521 **The fee for said license shall not be prorated.**

522
523 **(b) All solicitor licenses issued under this Division shall be issued and signed by**
524 **the city clerk, or their authorized designee.**

525
526 **(c) *Duration of solicitor licenses and renewal.***

527
528 **(1) The term of any solicitor license issued pursuant to this Division shall be for**
529 **one year, beginning January 1 and ending December 31 of the same year.**

530
531 **(2) No renewal of a solicitor license shall be authorized. Upon the expiration of**
532 **a solicitor license issued pursuant to this Division, licensees shall be**
533 **required to reapply and resecure a solicitor license.**

534
535 **(d) *Display of license and business license.* Licensees shall maintain a copy of their**
536 **solicitor license and a copy of the business license for their associated**
537 **business, if applicable, on their person at all times while conducting the**
538 **activities of a solicitor. All licensees shall be required to produce said licenses**
539 **on demand of any person while conducting the activities of a solicitor.**

540
541 **(e) *Solicitor license not to be assigned or transferred.* No solicitor license shall be**
542 **assigned or transferred.**

543
544 **(f) *Additional requirements.* In addition to the foregoing, all persons issued a**
545 **solicitor license pursuant to this Division shall adhere to the following**
546 **requirements:**

547

- 548 (1) Obey all provisions of this Division and any other applicable provisions of
549 the Nixa City Code, Missouri law, or federal law;
- 550
- 551 (2) Keep a record of all transactions occurring in the city and make available
552 said records to the city clerk upon request;
- 553
- 554 (3) No solicitor activities shall be permitted or attempted at any location which
555 has posted a “No Trespassing”, “No Solicitors”, or similar sign which shows
556 an intent of the residents or occupants at the location to not accept
557 solicitations without prior appointment.
- 558

559 **Sec. 12-41. – Application for solicitor license – Requirements.**

- 560
- 561 (a) Applications for solicitor licenses shall be made to the city clerk by a sworn
562 application. The application form shall be furnished by the city clerk. Said
563 application shall include at least the following:
- 564
- 565 (1) The name, physical address, mailing address, telephone number, and other
566 relevant contact information requested by the city clerk for the applicant;
- 567
- 568 (2) The name of the associated business of the applicant, if any, a description
569 of the business of the associated business, including the type of goods or
570 services to be sold or provided by the applicant on behalf of the associated
571 business, and proof that said associated business has been issued a valid
572 business license for such activities pursuant to Chapter 12, Division 2 of the
573 Nixa City Code;
- 574
- 575 (3) The physical address of the location of the applicant’s associated business
576 entity, if any, the appropriate mailing address and telephone number for said
577 associated business entity, and any other contact information of said
578 business requested on the application;
- 579
- 580 (4) The name, physical address, mailing address, and telephone number of the
581 person responsible for day-to-day operations of the applicant;
- 582
- 583 (5) If applicable, the Missouri sales tax number and a Missouri retail sale license
584 as required by state law or R.S.MO. Section 144.083, or an exemption
585 certificate or other proof of exemption from the Missouri sales tax law for the
586 applicant or the applicant’s associated business entity, as the case may be;
- 587
- 588 (6) If applicable, a certificate of no sales taxes due issued from the Missouri
589 Department of Revenue dated within 45 days of the date of application;
- 590
- 591 (7) If the applicant is not to be engaged as a solicitor on behalf of an associated
592 business entity, then the applicant shall provide the following:
- 593

- 594 a. Proof of the applicant’s business license issued pursuant to Chapter 12,
595 Division 2 of the Nixa City Code; and
596
- 597 b. Either a valid retail sales license issued by the State of Missouri, as
598 required by R.S.Mo. 144.083, or if the applicant is exclusively a solicitor
599 of services, a valid Missouri business tax identification number issued to
600 the applicant.

601
602 (8) Written consent for a criminal background check by the applicant;

603
604 (9) A copy of the applicant’s valid state or federal government issued photo
605 identification card;

606
607 (10) Any other information reasonably required by the city clerk to aid in the
608 enforcement of this Article or any other provision of the Nixa City Code.

609
610 (b) *Licensee to update information – when.* If any of the information or
611 circumstances provided to the city clerk as part of the application for a solicitor
612 license changes during the term of the license, the licensee shall advise the city
613 clerk of the change in information or circumstances within 20 days of such
614 change.

615
616 **Sec. 12-42. – Denial of application for solicitor license – when.**

617
618 (a) An application for a solicitor license shall be denied for any of the following
619 reasons:

620
621 (1) The application is incomplete or insufficient information has been provided;

622
623 (2) The application contains any false statements;

624
625 (3) The applicant has been convicted or plead guilty to a felony or misdemeanor
626 in any state or federal court involving a sex offense, violent acts against
627 persons or property, fraud, theft, or the making of a false statement in the
628 seven years preceding the application;

629
630 (4) The applicant has had a civil judgment issued against them for violations of
631 the Missouri Merchandising Practices Act, fraud, or the making of a false
632 statement in the seven years preceding the application;

633
634 (5) The associated business entity or the applicant owes an outstanding
635 financial obligation to the city; or

636
637 (6) Failure to pay the solicitor license fee required by Nixa City Code Section 2-
638 151.

639

640 (b) When an application is denied, the city clerk shall provide written notice of the
641 reason for denial by 1st class regular U.S. mail, postage prepaid, to the applicant
642 at the address listed on the application. This notice shall be deemed to have
643 been received 3 calendar days after the mailing date.

644
645 (c) A party aggrieved by the denial of a solicitor license application may request
646 administrative review by the hearing officer by filing a request for a hearing with
647 the city clerk within 15 calendar days after receipt of the notice provided in
648 subparagraph (b) above. The hearing shall be held in accordance with the
649 provisions of Section 12-22 of the Nixa City Code.

650 **Sec. 12-43. – Revocation of solicitor license – when.**

651
652
653 (a) A solicitor license issued pursuant to this Division may be revoked for the
654 following reasons:

655
656 (1) False statements, material misrepresentations, or omissions were made on
657 the application, renewal, or other communications related to a solicitor
658 license;

659
660 (2) The application for a solicitor license contains false or incomplete
661 information;

662
663 (3) The Licensee is delinquent in the payment of any taxes, fees, or other
664 financial obligations due to the city;

665
666 (4) Violations of this Chapter by any agents or employees of licensee;

667
668 (5) The Licensee’s activities become unlawful or are prohibited by any code,
669 rule, regulation, or law of the city, state, or federal government;

670
671 (6) The issuance of the license was in error or in violation of this Article;

672
673 (7) Failure to remain current in the payment of taxes owed to or collected by the
674 Missouri Department of Revenue;

675
676 (8) The licensee has been convicted of or pleaded guilty to a felony or
677 misdemeanor in any state or federal court involving a sex offense, violent
678 acts against persons or property, fraud, theft, or the making of false
679 statements during the term of the license;

680
681 (9) The licensee has a civil judgment issued against them for violations of the
682 Missouri Merchandising Practices Act, fraud, or the making of false
683 statements during the term of the license; or

684
685 (10) Any other violations of the Nixa City Code by the licensee.

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(b) Revocation procedures shall comply with the provisions of Section 12-22 of the Nixa City Code.

SECTION 2: Chapter 2, Article IV, Section 2-151 of the Nixa City Code is hereby amended as set forth herein:

(1) The following modifications to the language provided in Section 2-151(b)(1) is modified as set out below:

a. The existing language, provided below:

Business Licenses		
Fee Name	Fee Amount	Fee Description/Code Section
Business License	\$50.00/New \$25.00/Renewal	Duration of license begins January 1 and ends December 31. (See Sec. 12-21, 12-24, & 16-420).
Business License Late Fee	\$10.00	If License Application is not submitted by March 31. (See Sec. 12-21 & 12-24).
Itinerant Merchant License (Solicitor’s License)		
Fee Name	Fee Amount	Fee Description/Code Section
Solicitor License	\$100.00 license	Duration of License begins January 1 and ends December 31. (See Sec. 12-28).

b. Is hereby modified as set forth below:

License Fees		
Fee Name	Fee Amount	Fee Description/ Code Section
Business License	\$50.00/New \$25.00/Renewal	(See Sec. 12-30(a), 12-30(f)(2), & 16-420).
Business License Late Fee	\$10.00	(See Sec. 12-30(f)(2)).
Solicitor License	\$50.00	(See Sec. 12-40(a)).

SECTION 3: Aside from the modifications described in Section 2, all other portions of Section 2-151 of the Nixa City Code shall remain unmodified.

SECTION 4: The City Attorney, when codifying the provisions of this Ordinance, is authorized to provide for different section numbers, subsection numbers, and different internal citation references than those provided herein when such section numbers, subsection numbers, or internal citation references are in error or are contrary to the intent of this Ordinance.

SECTION 5: Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability

733 incurred nor any cause or causes of action occurred or existing, under any act or
734 ordinance repealed hereby.

735
736 **SECTION 6:** Severability Clause. If any section, subsection, sentence, clause, or
737 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
738 the validity of the remaining portions of this Ordinance. The Council hereby declares that
739 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
740 phrase thereof, irrespective of the fact that any one or more sections, subsections,
741 sentences, clauses, or phrases be declared invalid.

742
743 **SECTION 7:** This Ordinance shall be in full force and effect on November 1, 2024,
744 subject to the provisions of section 3.11(g) of the City Charter.

745
746 **ADOPTED BY THE COUNCIL THIS 13th DAY OF August 2024.**

747
748
749 ATTEST:
750
751 _____
752 PRESIDING OFFICER CITY CLERK

753
754
755 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2024.**

756
757 ATTEST:
758
759 _____
760 MAYOR CITY CLERK

761
762
763 APPROVED AS TO FORM:
764
765 _____
766 CITY ATTORNEY