

ORDINANCE NO. 5

AN ORDINANCE ENTITLED: "AN ORDINANCE DEFINING, LICENSING AND REGULATING THE BUSINESS OF THE TRANSIENT OR ITINERANT PHOTOGRAPHERS OR SOLICITATION OF PHOTOGRAPHS OR PICTURES OR ENLARGEMENTS OF SAME IN THE CITY OF STILWELL, OKLAHOMA; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF STILWELL, OKLAHOMA:

SECTION 1. It shall be unlawful for any person, firm or corporation to engage in the business of a transient or itinerant photographer, canvasser or solicitor of photographs or pictures or enlargements of the same, taken, photographed or otherwise made, prepared or enlarged, and sold or delivered, or for the transaction of any business in connection therewith, within the City of Stilwell, Oklahoma, without having first obtained a license so to do, as hereinafter provided; however, nothing in this Ordinance contained shall apply to any person, firm or corporation actually engaging in interstate commerce, in a bona fide manner, and not for the purpose of evading the provisions of this Ordinance.

SECTION 2. That the terms "transient" and "itinerant" shall be deemed to mean and include all persons, firms, or corporations engaged in the business of going from place to place or house to house in or about the City of Stilwell, Oklahoma, soliciting orders through the sale of coupons, or otherwise, for portrait photographic work, enlargements, and tinted portraits in water colors or in oils, and not having within Adair County, Oklahoma, a permanently established place of business for photographic work of at least a year standing.

SECTION 3. The terms "canvasser" and "solicitor" shall be deemed to mean and include any person who goes from house to house or from place to place in the City of Stilwell, Oklahoma, selling or taking orders for, or offering to sell or take orders for photographs, pictures or enlargements thereof, for future delivery.

SECTION 4. Any person desiring to engage in the business of transient, itinerant photographer, canvasser or solicitor of photographs, other pictures or enlargements thereof as hereinafter mentioned and defined with the said City, shall make an application in writing to the Clerk of the said City for the license so to do, which application shall be filed with the said Clerk at least seven (7) days before such applicant shall be authorized to begin said business. Such application shall state the name and residence of the applicant, the place where such business is to be conducted, the kind and type of photographs or enlargements for which orders are to be taken, and the length of time for which the license is desired. No such license shall issue until there is deposited with the Clerk, a bond in the penal sum of One Thousand Dollars (\$1,000), executed by a surety company or two responsible free holders residing within the City of Stilwell, Oklahoma, which said bond shall first be approved by the Clerk, or in lieu thereof, a cash bond of equal amount, which said bond shall be conditioned that all photographs, pictures or enlargements taken or for which orders are taken, shall be as represented by him, and that he will refund any monies or purchase price paid on said work, which is not as represented, and so as to indemnify and reimburse any person dealing with him, in a sum equal to at least the amount of any payment or payments such purchaser may have been induced to make through misrepresentation as to the kind and character of photographic or enlarging

work. Any person so misled or aggrieved by the representation of any licensee hereunder shall have a right of action on the bond for the recovery of the amount of his or her payment or payments or damages suffered or both. In the event a cash bond is deposited, the same shall be retained by said Clerk for a period of one hundred and twenty (120) days after the expiration of any such license.

On and after seven days from the filing of such application, and upon the filing of a bond and the approval thereof by the Clerk of said City, a license shall be issued by said Clerk to such applicant upon the payment of the following license fee:

Five dollars (\$5.00) for each day less than a week;
Twenty-five dollars (\$25.00) for one week; and
One hundred dollars (\$100.00) for one month.

All such license fees shall be paid in advance and, if any such licensee desires to continue in business after the expiration of such license, a new license shall be secured in the same manner and upon the same terms as the original license.

Before any license shall issue, there shall also be filed with the Clerk, an instrument in writing, signed by the applicant, nominating and appointing the City Clerk his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of said applicant, and service of summons in any action brought under said bond shall be deemed made when served upon said Clerk.

SECTION 5. All orders taken by any licensee under the provisions of this Act shall be in writing, and in triplicate, stating fully the terms thereof, together with the amount paid in advance, and the balance remaining due, and one copy of such order shall be delivered to the purchaser at the time of said order is taken and one copy, not later than twenty-four (24) hours after the taking of said order, shall be delivered to the City Clerk.

SECTION 6. Any person, firm or corporation who shall violate any of the provisions of this Ordinance shall, upon conviction, be fined in the amount of not less than \$10.00 and not more than \$100.00, or imprisonment for not more than sixty (60) days, or both; and each day during which any such person, firm or corporation is engaged in a business in violation of the provisions of this Ordinance shall be deemed and constitute a separate offense.

SECTION 7. That if any part of this Ordinance shall be judicially determined to be invalid, such invalidity shall not affect the remaining parts of this Ordinance, it being hereby expressly declared by the Board of Commissioners of the City of Stilwell, Oklahoma, that it would have passed this Ordinance with such part or parts so found to be invalid eliminated.

SECTION 8. By reason of the fact that it is necessary to prevent fraud and misrepresentation being practiced on the citizens of the city of Stilwell, Oklahoma, by irresponsible persons, firms or corporations engaged in the business herein regulated, an emergency is declared, and the Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage, approval and publication.

PASSED and APPROVED this 27th day of August, 1947.

PAUL B. CHAMBERS
Mayor

ATTEST:
JOE H. CARSON
City Clerk

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