

Ordinance No. 990907-3

An ordinance established to preserve and promote the public health, safety and welfare of the citizens of Wood Heights. Establishing regulations, fees and settings penalties for failure to comply.

Section 1. Board of Alderman of the City of Wood Heights hereby adopts "Model Peddlers, Solicitors, Itenerant Merchants" Ordinance for cities.

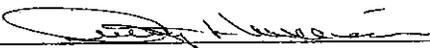
Section 2. Board of Alderman hereby determines that this Model Ordinance is not intended for enforcement of Girl Scouts, Brownies, local school programs, or local non-for profit groups.

Section 3. It hereby is declared to be the intention of the Board of Alderman that each and every part, portion and subportion of this Ordinance shall be separate and severable from each and every other part, portion or subportion hereof and that the Board of Alderman intends to adopt each said part, portion or subportion separately and independently of any other part, portion or subportion. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, portions and subportions shall be remain in full force and effect.

Section 4. Any person, firm, corporation or their representatives found to be guilty of the offense of Violating any section of this ordinance shall be punished by a fine not to exceed five hundred dollars or imprisonment for a term not to exceed ninety days or by both such fine and imprisonment.

Section 5. Any other Ordinances of the City of Wood Heights that shall be in conflict with any provision of this Ordinances is hereby repealed as of the date of the passage and adoption thereof.

Passed and approved this 7 day of Sept, 1999.



Mayor



Attest:

DIVISION 1. GENERALLY

Sec. 24-11. Definitions.

For the purposes of this article, a "transient merchant", "itinerant merchant" or "itinerant vendor" is defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar or boat, public room in hotels, lodging houses, apartments or shops, or any street, alley or other place within the city for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided, that this definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.

Sec. 24-12. Loud noises prohibited.

No licensee under this article, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device, including any loud speaking radio or amplifying system, upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Sec. 24-13. Enforcement; records and reports.

A. It shall be the duty of the police officers or the finance director of the city to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating same.

B. The finance department shall deposit the record of any fingerprints taken of a licensee under this article, together with a license number, with the chief of police; the chief of police shall report to the finance department any complaints against any person licensed under the provisions of this article; and the finance department shall keep a record of all such licenses and of such complaints and violations.

Secs. 24-14 - 24-28. Reserved.

DIVISION 2. LICENSES

Sec. 24-29. Required.

It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor to engage in such business within the city without first obtaining a license therefor in compliance with the provisions of this article.

Sec. 24-30. Application.

Each applicant for a license under this article shall file a written, sworn application, signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation, with the finance department, showing:

A. The names of the persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city; the local addresses of such persons while engaged in such business; the permanent addresses of such persons; the capacity in which such persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the name is incorporated.

B. Evidence of his fitness to carry on the business for which the license is sought.

C. The places in the city where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that such business shall be conducted.

D. The places, other than the permanent place of business of the applicant, where the applicant, within the six (6) months next preceding the date of such application, conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.

E. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city; the invoice value and quality of such goods, wares and merchandise; whether the same are proposed to be sold from stock in possession or from stock in possession and by sample, at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced; and where such goods or products are located at the time such application is filed.

F. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers; if required by the finance director, copies of all such advertising, whether by handbills, circular, newspaper advertising or otherwise, shall be attached to such application as exhibits thereto.

G. Whether or not the persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor.

H. Credentials from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative.

I. Such other reasonable information as to the identity or character of the persons having the management or supervision of the applicant's business or the method or plan of doing such business as the finance department may deem proper to fulfill the purposes of this article in the protection of the public good.

Sec. 24-31. Investigation; issuance or denial; contents.

Upon receipt of an application for a license under this article the finance department shall investigate the applicant. If it finds that the applicant has been convicted within the past five (5) years of a crime or ordinance which relates to his fitness to carry on the proposed business, the application shall be denied. Otherwise, the license shall be issued. Such license shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under the license and the names of the persons authorized to carry on the same.

Sec. 24-32. Bond prerequisite to issuance.

Before any license as provided by this article shall be issued for engaging in a transient or itinerant business in the city, such applicant shall file with the finance department a bond running to the city in the sum of one thousand dollars (\$1,000.00), executed by the applicant, as principal, and two (2) sureties upon which service of process may be made in the state; such bond shall be approved by the city counselor and shall be conditioned that the applicant shall comply fully with all of the provisions of this Code and other ordinances of the city and state law regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against such applicant for any violation of such Code, ordinances or statutes, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether such misrepresentation or deception was made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any advertisement, or any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold, or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person. Such bond must be approved by the city counselor both as to form and as to the responsibility of the sureties thereon.

Sec. 24-33. Service of process.

Before any license as provided by this article shall be issued for engaging in business as an itinerant merchant in the city, such applicant shall file with the finance department an instrument nominating and appointing the director of finance, or the person performing the duties of such position, his true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of such applicant in respect to any matters connected with or arising out of the business

transacted under such license and the bond given as required by this article, or for the performance of the conditions of such bond or for any breach thereof, which instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notice or process may be made upon such agent, and when so made shall be taken and held to be as valid as if personally served upon the person applying for the license under this article, according to the law of this or any other state, and waiving all claim or right of error by reason of acknowledgment of service or manner of service. Immediately upon service of process upon the director of finance, as herein provided, the director of finance shall send to the licensee at his last known address by registered mail a copy of such process.

Sec. 24-34. Fee.

A. Licensees under this article shall pay to the city a fee based upon the gross amount of sales by such persons, which fee shall be at the minimum rate of one hundred dollars (\$100.00) per day or five (5) percent, whichever is greater.

B. Every person conducting a business licensed under this article shall, on the first business day of each week, and upon discontinuance of business in the city, present to the finance department, at its office, a verified statement showing the total sales made during the preceding week and shall pay to the finance department the amount of license fee provided for by this section, for sales made during the previous week. The director of finance and any other officer designated by him, shall have power and authority to enter any store, building or any other place in which such temporary business may be conducted at any place during the business hours, for ascertaining the amount of sales made, and shall at all times have access to the books of such business.

Sec. 24-35. Expiration.

All licenses issued under the provisions of this article shall expire ninety (90) days after the date of issuance thereof, unless a prior date is fixed therein.

Sec. 24-36. Transfer.

No license issued pursuant to this article shall in any case be transferred or assigned.

Sec. 24-37. Posting.

The license issued under this article shall be posted conspicuously in the place of business named therein. In the event that such person applying for the license shall desire to do business in more than one place within the city, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

Sec. 24-38. Revocation.

A. Licenses issued pursuant to this article may be revoked by the mayor, after notice and hearing, for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for license.
2. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
3. Any violation of this article.
4. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
5. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five (5) days prior to the date set for the hearing.

Sec. 24-39. Appeals.

Any person aggrieved by the decision of the finance department in regard to the denial of application for license as provided for in this article, or in connection with the revocation of a license as provided for in this article, shall have the right to appeal to the city council. Such appeal shall be taken by filing with the council, within fourteen (14) days after notice of the decision by the finance department has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal. The council shall set the time and place for a hearing on such appeal, and notice of such hearing shall be given to such person in the same manner as provided in this article for notice of hearing on revocation. The order of the council on such appeal shall be final.

Secs. 24-40 - 24-50. Reserved.

ARTICLE III. PEDDLERS, SOLICITORS, ETC.

DIVISION 1. GENERALLY

Sec. 24-51. Definitions.

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

Canvasser/solicitor. Any individual, whether a resident of the city or not, traveling by foot, wagon, automobile, motor truck or other type of conveyance, from street to street, from house to house or from place to place, taking or attempting to take orders for sale of goods, wares or merchandise, or personal property of any nature whatsoever, for some future delivery or for services to be performed or to be furnished in the future, whether or not such individual has, carries or exposes for sale a sample of the subject matter of such sales or whether he is collecting advance payments on such sales or not; provided, that this definition shall include any person who, for himself or another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. A "canvasser or solicitor" is further defined as any individual, whether resident of the city or not, who, for himself or any other person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the purpose of taking or attempting to take orders for the sale of goods, wares or merchandise, or personal property of any nature whatsoever, for future delivery or for services to be performed or furnished in the future, by the use of a telephone and the placing of telephone calls to persons living or residing within the city; provided, that it shall not make any difference that any order taken by a telephone call shall be subsequently reduced to writing and executed by the person ordering and purchasing such goods, wares or merchandise.

Peddler. Any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; provided, that one who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker" and "huckster."

Sec. 24-52. Loud noises.

No peddler, nor any person in his behalf, shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, alleys, parks or other public places, for the purposes of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Sec. 24-53. Use of streets.

No peddler shall have any exclusive right to any location in the public streets, nor shall he be permitted a stationary location, nor shall he be permitted to operate in any congested where his operations might impede or inconvenience the public. For the purposes of this section, the judgement of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Sec. 24-54. Enforcement.

It shall be the duty of any police officer, or the finance department to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his peddler's, solicitor's or canvasser's license, and it shall be the duty of such department or officers to enforce the provisions of this article against any person found to be violating the same. The chief of police shall report to the finance department all convictions for violations of this article, and the finance department shall maintain a record for each license issued and record the reports of violations therein.

Secs. 24-55 - 24-65. Reserved.

DIVISION 2. LICENSE

Sec. 24-66. Required.

It shall be unlawful for any person to engage in the business of peddler, solicitor or canvasser within the corporate limits without first obtaining a license therefor as provided in this article.

Sec. 24-67. Application.

A. Each applicant for a license under this article must file with the finance department a sworn application in writing, in duplicate, on a form to be furnished by the finance department, which shall give the following information:

1. Name and description of the applicant.
2. Permanent home address and full location address of the applicant.
3. A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant.
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
5. The length of time for which the right to do business is desired.

6. Evidence of his fitness to carry on the business or activity for which the license is sought.
 7. In the case of peddlers who will use a vehicle, a description of same, together with license number or other means of identification.
 8. In the case of solicitors and canvassers, the name of the place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery.
 9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any provision of this Code or other municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- B. The applicant shall file with his application a statement by a reputable physician of the city, dated not more than ten (10) days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease. At the time of filing the application, a fee of one dollar (\$1.00) shall be paid to the finance department to cover the cost of investigation.

1977, 1978, 1979

Sec. 24-68. Investigation; issuance or denial; contents.

- A. Upon receipt of an application under this article, the original shall be referred to the chief of police, who, with the finance department, shall cause an investigation of the applicant. If it is found that the applicant has been convicted within the past five (5) years of a crime or ordinance which relates to his fitness to carry on the proposed business or activity, the chief of police shall endorse on such application his disapproval, and his reasons for the same, and return the application to the finance department, which shall notify the applicant that his application is disapproved and that no license will be issued.
- B. If, as a result of such investigation, the applicant is found not to be ineligible for the license, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit, along with the application, to the finance department, which upon payment of the prescribed license fee, issues the license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of such licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling, soliciting or canvassing.

Sec. 24-69. Fees for peddlers.

- A. The amounts of peddlers' license taxes which shall be paid to the city under this article shall be computed as follows:

1. Three dollars (\$3.00) per day, thirty dollars (\$30.00) per month or seventy-five dollars (\$75.00) per year, for each person proposing to peddle on foot.
2. Three dollars (\$3.00) per day, thirty dollars (\$30.00) per month or seventy-five dollars (\$75.00) per year, for each person proposing to peddle by using a handcart or pushcart.
3. Five dollars (\$5.00) per day, thirty dollars (\$30.00) per month or seventy-five dollars (\$75.00) per year, for each person proposing to peddle from a wagon, motor vehicle, railroad car or other conveyance.
4. No fee shall be required of one selling products of the farm or orchard, or other products actually produced by the seller.

B. For the purposes of this article, any period of seven (7) calendar days or less shall be considered one week, any period of more than seven (7) calendar days and not more than thirty (30) calendar days shall be considered one month and any period of more than thirty (30) calendar days and not more than one calendar year shall be treated as a year. The annual fees herein provided for shall be assessed on a calendar year basis, and on and after July 1 the amount of the fee for such annual licensees shall be one-half the amount stipulated for the remainder of the year.

Sec. 24-70. Fees for canvassers or solicitors.

A. The license fee which shall be charged by the finance department for a license to conduct business as a canvasser or solicitor shall be three dollars (\$3.00) per day, thirty dollars (\$30.00) per month or seventy-five dollars (\$75.00) per year. If the person seeking to conduct a business as a solicitor or canvasser leases any office or other place within the city for a minimum period of one year, using such office to keep business records in connection with all canvassing and soliciting done within the city, the license fee which shall be charged by the finance department for a license to conduct such business as a canvasser or solicitor shall be as follows:

1. One solicitor, thirty dollars (\$30.00) per year;
2. Two (2) solicitors, fifty dollars (\$50.00) per year;
3. Three (3) solicitors, sixty dollars (\$60.00) per year;
4. Four (4) solicitors, sixty-five dollars (\$65.00) per year;
5. Five (5) solicitors, seventy dollars (\$70.00) per year; and
6. Six (6) solicitors or more, seventy-five dollars (\$75.00) per year.

B. The license fee to be charged for a license to conduct business as a canvasser or solicitor shall be one dollar (\$1.00) per day, fifteen dollars (\$15.00) per month or fifty dollars (\$50.00) per year.

C. The annual fees herein provided shall be assessed on a calendar year basis, and on or after July 1 the amount of such fee for annual licenses shall be one-half the amount stipulated above for the

remainder of the year.

D. None of the license fees provided for by this section shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at the time of or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the mayor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The mayor shall then conduct an investigation, comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed by this section is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the mayor shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by subsections (a) and (b) of this section. Should the mayor determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the city or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor; provided, that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in subsections (a) and (b) of this section.

Sec. 24-71. Bond.

Every applicant for a solicitor's or canvasser's license, not a resident of the city, or who being a resident of the city, represents a firm whose principal place of business is located outside the state, shall file with the finance department a surety bond, running to the city in the amount of one thousand dollars (\$1,000.00), with surety acceptable to and approved by the mayor, conditioned that such applicant shall comply fully with all the provisions of this Code and other ordinances of the city and state law regulating and concerning the business of solicitor and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the city doing business with such solicitor that the property purchased will be delivered according to the representations of such solicitor. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.

Sec. 24-72. Expiration.

All annual licenses issued under the provisions of this article shall expire on December 31 in the year when issued. Licenses other than annual licenses shall expire on the date specified in the license.

Sec. 24-73. Transfer.

No peddler's license or badge issued under the provisions of this article shall be used or worn at any time by any person other than the one to whom it was issued.

Sec. 24-74. Exhibition.

Peddlers, solicitors and canvassers shall exhibit their license in an open and prominent manner upon their approach to any citizen or resident and at the request of any citizen.

Sec. 24-75. Revocation.

A. Licenses issued under the provisions of this article may be revoked by the finance department after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for license.
2. Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler, solicitor or canvasser.
3. Any violation of this article.
4. Conviction of any crime or misdemeanor or ordinance involving moral turpitude.
5. Conducting the business of peddling, soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

Sec. 24-76. Appeals.

A. Any person aggrieved by the action of the chief of police or the finance department in the denial of an application for a license as provided in this article, or in the decision with reference to the revocation of a license as provided in this article, shall have the right of appeal to the council.

B. Any person aggrieved by the action of the chief of police or the finance department in the denial of a license as provided in this article, or the action of the mayor in the assessing of the fee as provided in this article, shall have the right of appeal to the city council.

C. Such appeals shall be taken by filing with the council, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in this article for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive.

1997, § 92.60

NOTES

Authority to license, regulate, etc., peddlers, solicitors, etc., RSMo. § 94.110. See also, RSMo. § 1-2, Licenses, taxation and other regulations, Ch. 17.

State law reference - Authority to license, regulate, etc., peddlers, solicitors, etc., RSMo. § 94.110.