

ORDINANCE 2012 - ____

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROYAL OAK AT CHAPTER 526, "PEDDLING, SOLICITING AND TRANSIENT MERCHANTS", ARTICLE V, "PEDDLING AND SOLICITING", TO PROVIDE FOR THE ESTABLISHMENT AND MAINTENANCE OF A DO NOT KNOCK REGISTRY TO LIMIT COMMERCIAL SOLICITATION ON RESIDENTIAL PROPERTY

THE CITY OF ROYAL OAK ORDAINS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the "2012 Peddling Ordinance".

Section 2. STATEMENT OF PURPOSE. This is an ordinance to amend the Code of the City of Royal Oak at Chapter 526, "Peddling, Soliciting and Transient Merchants", Article V, "Peddling and Soliciting", to provide for the establishment and maintenance of a Do Not Knock Registry to limit commercial solicitation on residential property.

Section 3. AMENDMENT. Chapter 526, "Peddling, Soliciting and Transient Merchants", Article V, "Peddling and Soliciting" hereby amended to now read as follows:

**"ARTICLE V
Peddling**

§ 526-31. Short title.

This Article shall be known and may be cited as the "Peddling Ordinance."

§ 526-32. Definitions.

For the purpose of the provisions of this Article, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended:

CITY CLERK -- The City Clerk of the City of Royal Oak, or his or her designated representative.

PEDDLE -- Traveling, either by foot, motor 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 for sale, or taking or attempting to take orders for profit by the sale of goods, wares and merchandise, books or magazines, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future.

PEDDLER -- Any person traveling either by foot, motor 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 for sale, or taking or attempting to take orders for profit by the sale of goods, wares and merchandise, books or magazines, or personal property of any nature

whatsoever for future delivery, or for services to be furnished or performed in the future. The word "peddler" shall include the words "hawker," "huckster" and "canvasser."

PERSON -- Any individual, partnership, corporation, limited liability company, or other entity.

§ 526-33. Peddling license required; Do Not Knock Registry required.

- A. No person shall peddle within the City of Royal Oak without a valid license to peddle in his or her name in his or her possession.
- B. No person shall peddle within the City of Royal Oak without a copy of the Do Not Knock Registry maintained pursuant to Section 526-38 in his or her possession.

§ 526-34. Application for license.

Applications for a license to peddle shall be filed with the City Clerk upon forms to be furnished by the City Clerk. The application shall contain the following information:

- A. The full name, address and telephone number of the applicant.
- B. The applicant's date of birth.
- C. The applicant's driver's license number, if any
- D. The applicant's social security number.
- E. A description of the nature of the business and the goods to be sold.
- F. If employed, the name, address and telephone number of the applicant's employer.
- G. The place where the goods or property are 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 said application is filed, and the proposed method of delivery.
- H. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- I. A statement as to whether or not an applicant has been convicted of any felony, misdemeanor or municipal ordinance violation, the nature of the offense and the punishment or penalty assessed thereof.
- J. Any other information that the City may reasonably require in order to protect the public health, safety and welfare.

§ 526-35. Investigation.

- A. Upon receipt of such application, the City Clerk shall refer the application to the Chief of Police or his or her designated representative, who shall investigate and determine whether the person making application for such license is of suitable character to possess a license pursuant to Chapter 425 of the City Code, as amended.

- B. If an applicant is found to be of suitable character for a license, the City Clerk shall issue the applicant a license to peddle. If an applicant is found to be unqualified for a license because of lack of suitable character, or similar criteria, the City Clerk shall furnish the applicant with a statement containing information as to the basis for this determination.
- C. An applicant whose request for a license is refused shall have the right to appeal pursuant to Chapter 425 of the City Code, as amended.

§ 526-36. Fee for license.

The fee for a peddler's license shall be set by resolution of the City Commission.

§ 526-37. Filing false application.

It shall be a violation of this Article for any person to knowingly file, or knowingly cause to be filed, an application containing one or more false statements.

§ 526-38. Do Not Knock Registry

- A. The City Clerk shall establish and maintain a Do Not Knock Registry.
- B. Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling within the City may request that the City place and maintain his or her residence, house, apartment, or dwelling on the Do Not Knock Registry by submitting a written request on a form supplied by the City Clerk. The written request shall contain the following:
 1. The name of the person completing the form.
 2. The complete address of the residence, house, apartment, or dwelling to be placed on the Registry.
 3. The date the form was completed.
 4. A statement that a peddlers shall not knock, ring the doorbell, or otherwise call at his or her residence, house, apartment, or dwelling.
 5. Any other information reasonably required by the City to verify the identity of the person completing the form as a lawful occupant and possessor of the residence, house, apartment, or dwelling.
- C. Every person who requests that the City place and maintain his or her residence, house, apartment, or dwelling on the Do Not Knock Registry shall be required to re-register his or her residence, house, apartment, or dwelling every five (5) years. Any residence, house, apartment, or dwelling that is not re-registered shall be removed from the Registry pursuant to Subsection (E).
- D. Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling within the City may request that the City remove his or her residence, house, apartment, or other dwelling from the Do Not Knock Registry by submitting a written request on a form supplied by the City Clerk. The written request shall contain the following:

1. The name of the person completing the form.
2. The complete address of the residence, house, apartment, or dwelling to be removed from the Registry.
3. The date the form was completed.
4. A statement that his or her residence, house, apartment, or dwelling shall be removed from the Do Not Knock Registry.
5. Any other information reasonably required by the City to verify the identity of the person completing the form as a lawful occupant and possessor of the residence, house, apartment, or dwelling.

E. After being placed on the Do Not Knock Registry, a residence, house, apartment, or other dwelling shall remain on the Registry until one of the following occurs:

1. The City Clerk receives a written request to remove the residence, house, apartment, or dwelling from the Registry pursuant to Subsection (D).
2. The City receives written notice that that person who submitted the request to have the residence, house, apartment, notice, or dwelling added to the Registry pursuant to Subsection (A) is no longer a lawful possessor or occupant of the premises.
3. The expiration of five (5) calendar years, expiring on December 31st of the fifth full calendar year, from the date of the form submitted pursuant to Subsection (A).

F. The City Clerk shall provide a copy of the then-current Do Not Knock Registry to each person issued a Peddler's License pursuant to Section 526-38. A copy of the Do Not Knock Registry shall also be available for public inspection in the City Clerk's Office during regular business hours and on the City's website.

G. The failure to add a residence, house, apartment, or other dwelling to the Do Not Knock Registry, or to remove a residence, house, apartment, or other dwelling from the Registry, shall not be grounds for any claim against the City.

§ 526-39. Prohibited areas.

A. No licensee, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale, nor remain, barter, sell, offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property.

B. No licensee shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer or code enforcement officer of the City because of congested or dangerous traffic conditions.

§ 526-40. Prohibited practices.

- A. No licensee on a residential street shall shout or cry out his or her goods or merchandise, nor blow any horns, sirens or use other similar devices to attract the attention of the public.
- B. No licensee shall enter upon property which has posted a "No Solicitation" sign or its equivalent or which at that time is on the Do Not Knock Registry established and maintained pursuant to Section 526-38 for the purpose of peddling, unless the licensee has previously been invited on the premises by the owner, lessee, or an adult occupant thereof.
- C. No licensee shall fail to leave premises when asked by the owner or occupant to do so.
- D. No licensee shall call at any residence within the City before 9:00 a.m. nor after 9:00 p.m., except upon the previously arranged request of the occupant thereof.
- E. No licensee shall enter, or attempt to enter, any residence without an express invitation from an adult occupant of the residence.
- F. No licensee shall engage in any peddling other than that specified in his or her application for a peddler's license.

§ 526-41. Misrepresentation of endorsement by City.

No person shall represent that the granting of a license under this Article is an endorsement by the City of the particular organization involved, and any such representation is hereby declared to be a misrepresentation of fact and subject to the provisions for revocation of the license.

§ 526-42. Assignment of license prohibited.

A license granted pursuant to this Article may not be assigned, transferred, or otherwise utilized by any person or entity other than the licensee.

§ 526-43. Suspension or revocation.

Upon a violation of this Article, or any other applicable ordinance, a license granted pursuant to this Article may be suspended or revoked pursuant to Chapter 425 of the City Code, as amended.

§ 526-44. Violations and penalties.

- A. A violation of Section 526-40(B) is a civil infraction, punishable by a fine of up to \$500.00.
- B. A violation of any other provision of this Article is a misdemeanor, punishable by a fine of up to \$500 and/or 90 days in jail."

Section 4. REPEAL AND RESERVATION. Chapter 526, "Peddling, Soliciting and Transient Merchants", Article V, "Peddling and Soliciting", Sections 526-45 and 526-46, are hereby repealed and reserved for future use.

Section 5. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 7. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 8. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.