

CHAPTER 526 PEDDLING, SOLICITING AND TRANSIENT MERCHANTS

[HISTORY: Adopted by the City Commission of the City of Royal Oak as indicated in article histories.

Amendments noted where applicable.]

GENERAL REFERENCES

Charitable contributions for public purposes — See Ch. [26](#).

Public auctions — See Ch. [201](#).

Sale of books, magazines and videos — See Ch. [213](#).

Christmas tree sales — See Ch. [244](#).

Hauling and sale of dirt — See Ch. [273](#).

Licensing — See Ch. [425](#).

City Market — See Ch. [441](#).

Merchants and mercantile establishments — See Ch. [458](#).

Peddling and soliciting in parks — See Ch. [515](#).

Pawnbrokers — See Ch. [521](#).

Precious metals and gems — See Ch. [547](#).

Secondhand goods; junk — See Ch. [593](#).

ARTICLE I Sales on Streets (§ 526-1 — § 526-4)

[Adopted 1-28-1929 by Ord. No. 216]

§ 526-1 Unlawful sales; exceptions; temporary permits.

[Amended 8-19-1963 by Ord. No. 63-12]

It shall be unlawful for any person, firm or corporation to display, sell or offer for sale any goods, wares or merchandise of any kind or description upon the public streets, ways and places of the City, with the following exceptions:

A.

It shall be lawful for the City Commission to grant a temporary permit upon application by the Chamber of Commerce or other merchant organization for the display and sale of goods, wares and merchandise by merchants on the public sidewalks in front of their respective stores. The City Commission in granting any such temporary permit may attach such conditions to such permit as the City Commission deems necessary in order to ensure the safety and convenience of pedestrian traffic, and in order to protect the public safety and general welfare.

B.

It shall be lawful for newsboys to sell newspapers upon the public streets.

C.

It shall be lawful for venders duly licensed by the City to sell goods from vehicles, so long as such vendors comply with all ordinances of the City relative to such selling.

§ 526-2 Public solicitations.

It shall be unlawful for any person in his own behalf or as agent for another person, firm or corporation to personally solicit anyone upon the streets and public places of the City of Royal Oak for the purpose of selling

either merchandise or service of any kind; provided, however, it shall not be unlawful for newsboys and licensed vendors to so solicit.

§ 526-3 Advertising tourist accommodations.

[Added 9-5-1939 by Ord. No. 363]

It shall be unlawful for any person in his own behalf or as agent for any other person or persons to personally solicit tourists, motorists or other persons upon the streets and public places of the City of Royal Oak for the purpose of directing such tourist or other person to a tourist home, rooming house, lodging house, tourist camp or any other place used for the purpose of lodging tourists, or for the purpose of advertising tourist accommodations or persuading tourists or other persons to use such tourist accommodations or the services provided thereat.

§ 526-4 Violations and penalties.

Anyone found guilty of violating this article may be fined not exceeding \$100 or imprisoned in the County Jail of Oakland County, Michigan, for a period not exceeding 30 days, or both such fine and imprisonment, in the discretion of the court.

ARTICLE II Solicitations (§ 526-5 — § 526-15)

[Adopted 4-30-1956 by Ord. No. 855]

§ 526-5 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CITY MANAGER

The City Manager of Royal Oak, or his authorized delegate.

PERSON

Any individual, firm, copartnership, corporation, company, association or joint-stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

SOLICIT and SOLICITATION

The request of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose, by telephone, personal interview, or otherwise. The said words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription or other thing, whether of value or not, on the plea or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose.

§ 526-6 Permit required.

No person shall solicit for any cause whatsoever, except as herein otherwise provided, within the City of Royal Oak, without a permit from the City authorizing such solicitation; provided, however, that the provisions of this article shall not apply to solicitations conducted exclusively within the membership of an organization by its own officers and members.

§ 526-7 Application for permit.

Applications for permits under this article shall be filed with the City Clerk upon forms to be furnished by the City Clerk. The application shall contain the following information or, in lieu thereof, a detailed statement of the reason why such information cannot be furnished:

A.

Name, address, telephone number and headquarters of the person applying for the permit.

B.

If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers.

C.

The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by the solicitor.

D.

The name of the person or persons by whom the receipts of such solicitation shall be disbursed.

E.

The names and addresses of the person or persons who will be in direct charge of conducting the solicitation.

F.

An outline of the method or methods to be used in conducting the solicitation.

G.

The time when such solicitations shall be made, giving the proposed dates for the beginning and ending of such solicitations.

H.

The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any persons in connection with such solicitation, together with the manner in which such wages, fees, expenses, commissions, or emoluments are to be expended, to whom paid and the amount thereof.

I.

The estimated cost of the solicitation.

J.

Such other information as may be required by the City Manager for him to determine the kind and character of the proposed solicitation and whether such solicitation is in the interest of, and not inimical to, the public welfare.

§ 526-8 Filing false application.

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

§ 526-9 Conditions for issuance of permit.

The City Manager shall authorize the permit provided for in § [526-6](#) hereof whenever he shall find the following facts to exist:

A.

That the applicant is a person or organization which is, as a matter of fact, engaged in charitable, patriotic, civic, educational, philanthropic or religious activity, or engaged in raising funds for distribution to such persons or organizations.

B.

That the net proceeds derived from the solicitations authorized under the permit shall be used exclusively for charitable, civic, educational, patriotic, philanthropic or religious purposes.

C.

That none of the proceeds derived from the solicitations authorized by the permit will be divided in any manner with persons who actually make the solicitations.

D.

That the proceeds of the solicitations authorized by the permit will not be divided or in any manner shared, either directly or indirectly, with any person or organization other than the applicant for the permit, or the person or organization for whose benefit the solicitation is made.

E.

That expenses incidental to the solicitation shall not exceed 30% of the gross proceeds, assuring the donor that at least 70% of the donation shall be used for the charitable, civic, educational, patriotic, philanthropic or religious activity named; provided, however, that where the solicitation is incidental to the sale of something claimed to be of value, the City Manager may, in his discretion, authorize a departure from the above ratio.

§ 526-10 Contents of permit; dates of solicitations.

[Amended 1-7-1963 by Ord. No. 63-1]

Permits issued under this article shall bear the name and address of the person by whom the solicitation is to be made, the date of issuance, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the City of the purpose or of the person conducting the solicitation. The dates within which the permit holder may solicit shall be determined by the City Manager, but no permit shall grant the right to solicit for a longer period than one year from its date of issuance. In determining the dates of solicitation, the City Manager shall, whenever possible, honor the dates of solicitation proposed by the applicant and shall only alter such dates when the dates proposed by the applicant would conflict with other solicitations previously authorized and where simultaneous solicitations by two or more groups would tend to be confusing to the public.

§ 526-11 Fees.

At the time when application is made for a permit, there shall be paid to the City Treasurer the sum of \$2 to cover the cost of an investigation into the qualifications of the applicant as above provided. There shall be no further charge for the permit, but the sum of \$0.10 shall be paid for each facsimile copy of the permit that is desired.

§ 526-12 Permit nontransferable; copies of permits to be carried by representatives; permits and copies to be returned upon expiration.

Any permit approved and issued under this article shall be nontransferable; provided, however, that this shall not prevent any permittee from using any number of solicitors and representatives and, provided further, that the City Manager may, at his discretion, require that each solicitor and representative shall carry a facsimile copy of such permit while engaged in solicitation. All permits and facsimile copies shall be returned to the City Clerk within two days of the date of expiration.

§ 526-13 Permit not endorsement by City.

No person shall represent that the granting of a permit hereunder is an endorsement by the City of Royal Oak 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 permit as herein provided.

§ 526-14 Revocation of permit.

If, upon receipt of written information or upon his own investigation, the City Manager has reason to believe that any officer, agent or representative of a permittee is misrepresenting facts or making untrue statements, or has misrepresented facts or made untrue statements either with words or by implication, with regard to solicitations or the purposes thereof, or has made untrue statements in the application, or that in any other way the solicitations have been conducted, or are being conducted, in violation of any part of this article and not in conformity with the intent and purpose of this article, then the City Manager shall immediately suspend such permit; provided, however, that before any permit is revoked, the City Manager shall cause to be mailed to the permit holder a notice that a hearing is to be had before the City Commission, and such notice shall be mailed or served upon the permittee personally, at least 24 hours before said hearing, and at such hearing the facts shall be ascertained and reported to the City Commission at its next meeting, and if it shall find any of the reasons above set forth for

revoking the permit exist, the permit shall be revoked.

§ 526-15 Violations and penalties.

Any person violating any of the provisions of this article, or filing, or causing to be filed, an application for a permit or certificate under this article containing false or fraudulent misstatements, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 and costs, or shall be imprisoned for not more than 90 days, or may be punished by both such fine and imprisonment, in the discretion of the court.

ARTICLE III Transient Merchants (§ 526-16 — § 526-26)

[Adopted 8-20-1956 by Ord. No. 873]

§ 526-16 Definitions.

[Amended 4-13-1959 by Ord. No. 59-3]

As used in this article, the following terms shall have the meanings indicated:

PERSON

Includes any firm, partnership, corporation or association.

TRANSIENT MERCHANT

Any person engaging in the retail sale of goods, wares or merchandise in any place in the City and who, for the purpose of conducting such business, occupies any lot, property, building, room or structure of any kind, with the intention of continuing in said business for a period of not more than six months, provided that any person who is already engaged in the retail sale of goods, wares and merchandise at another location in the City, and has been so engaged for a period of at least one year, shall not be considered a transient merchant.

§ 526-17 Exemptions.

[Amended 10-22-1956 by Ord. No. 882]

The provisions of this article shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, for resale, nor to bona fide sales of goods, wares or merchandise for future delivery, nor to hawkers on the streets or peddlers from vehicles, nor to any sales of goods, wares or merchandise by societies acting for charity, religious or public purposes, nor to persons handling vegetables, fruits or perishable farm products at the City Market Building, nor to sales of Christmas trees by persons licensed under the provisions of Chapter [244](#), Christmas Trees.

§ 526-18 License required.

It shall be unlawful for any person, either as principal or agent, to engage in business as a transient merchant in the City of Royal Oak without having first obtained a license in the manner herein provided.

§ 526-19 Application for license.

[Amended 1-4-1977 by Ord. No. 77-2; 2-13-1989 by Ord. No. 89-6]

A.

Any person desiring to engage in such business shall make and file with the City Clerk an application which shall be furnished by the City Clerk. The application shall contain the following information:

(1)

Name, address, telephone number and date of birth of the person applying for the license.

(2)

The location where the applicant intends to do business, and the type of business intended.

(3)

The applicant's state sales tax license number which has been obtained from the State of Michigan.

B.

At the time of filing the application with the City Clerk, the applicant shall also file a site plan detailing the area where the business is proposed to be conducted.

§ 526-20 Processing of application.

[Added 1-26-1970 by Ord. No. 70-2; amended 1-4-1977 by Ord. No. 77-2; 2-13-1989 by Ord. No. 89-6]

A.

Upon receipt of the application, the City Clerk shall forward same to the Chief Building Inspector who shall cause such investigation to be made to insure that the proposed business will be in compliance with applicable City ordinances. Upon completion of his investigation, the Chief Building Inspector shall endorse on the application his recommendation and return it to the City Clerk.

B.

Upon receipt of the site plan, the City Clerk shall forward same to the Royal Oak Plan Commission for its review and recommendation.

§ 526-21 Issuance of license; expiration of license; license fee.

[Amended 2-13-1989 by Ord. No. 89-6]

A.

Upon receiving favorable recommendations from the Chief Building Inspector and Plan Commission, the City Clerk, upon receipt of the license fee from the applicant, shall issue a license. All such licenses shall expire within six months of date of issue.

B.

The license fee to be paid by the applicant shall be set by resolution of the City Commission and shall be reflective of the costs and expenses incurred by the City in administering this article.

§ 526-22 Filing false application.

[Amended 2-13-1989 by Ord. No. 89-6]

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

§ 526-23 Revocation of license.

[Amended 2-13-1989 by Ord. No. 89-6]

Any violation of this article or any other ordinances of the City of Royal Oak will result in the revocation of the license; and the City Clerk shall immediately mail notice of such revocation to the license holder by regular mail to the address on file with the Clerk's office.

§ 526-24 License nontransferable; display of license

[Amended 1-4-1977 by Ord. No. 77-2]

No person shall conduct the business of transient merchant without first securing a license to operate, and no license issued under this article shall be transferable, nor shall it be used by any person, firm or corporation other than that named as licensee, and said licensee shall conspicuously display said license in his place of business so that the same is plainly visible to the public.

§ 526-25 License fees under other ordinances.

This article shall not be construed to exempt licensees hereunder from any other license fees that may be due under other ordinances of the City of Royal Oak.

§ 526-26 Violations and penalties.

[Amended 1-4-1977 by Ord. No. 77-2; 2-13-1989 by Ord. No. 89-6]

Every transient merchant who sells or exhibits for sale at public or private sale any goods, wares or merchandise without first complying with the provisions of this article, or who makes any false statement in his application for his license, or who fails to comply with the requirements of any provisions of this article, and every person, whether principal or agent, who by circular, handbill, newspaper or in any manner advertises such sale as herein contemplated, before the proper license is issued to the transient merchant, and before he has complied with the provisions of this article, shall be guilty of a violation of this article and shall be punished by a fine of not to exceed \$500 or imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

ARTICLE IV Private Residential Property (§ 526-27 — § 526-30)

[Adopted 4-14-1969 by Ord. No. 69-15]

§ 526-27 Uninvited peddlers prohibited.

The practice of going upon private residential property by peddlers, hawkers, or vendors of goods, wares or merchandise or by persons soliciting orders for future delivery of goods, wares or merchandise or for the performance of services for a fee, not having been requested or invited so to do by the owner or occupant of such private residential property, is hereby declared to be a nuisance and punishable as a misdemeanor.

§ 526-28 Exceptions.

This article shall not be construed to prevent route salesmen or other persons having established customers from calling upon such customers, or from making not more than one call upon a prospective customer to solicit an order for future, periodic route deliveries. Persons licensed pursuant to Article [II](#), Solicitations, of this chapter to make charitable solicitations are not prohibited by this article from making such solicitations.

§ 526-29 Contracts may be voided.

Any contract entered into pursuant to a solicitation made in violation of the provisions of this article shall be voidable at the option of the purchaser.

§ 526-30 Violations and penalties.

Any person violating any provision of this article shall, upon conviction thereof, be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment, in the discretion of the court.

ARTICLE V Peddling and Soliciting (§ 526-31 — § 526-46)

[Adopted 5-4-1992 by Ord. No. 92-7]

§ 526-31 Short title.**§ 526-32 Definitions.****§ 526-33 Permit or license required; exception.****§ 526-34 Application for permit for noncommercial solicitation.****§ 526-35 Filing false application.****§ 526-36 Standards in consideration of permits.****§ 526-37 Peddling license required.**

§ 526-38	<u>Application for license.</u>
§ 526-39	<u>Fee for license.</u>
§ 526-40	<u>Fixed stands; site plan required.</u>
§ 526-41	<u>Prohibited areas.</u>
§ 526-42	<u>Prohibited practices.</u>
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