

ORDINANCE 7041-2021

AN ORDINANCE AMENDING ARTICLE 1 – IN GENERAL OF CHAPTER 62 – PARKS AND RECREATION AND ARTICLE II – ITINERANT MERCHANTS, PEDDLERS, AND SOLICITORS OF CHAPTER 66 – PEDDLERS AND SOLICITORS – OF THE CODE OF WOODSTOCK, GEORGIA, TO PROVIDE FOR REVISED DEFINITIONS, LICENSING REQUIREMENTS, AND FOR OTHER PURPOSES

Whereas, the City of Woodstock, Georgia (hereinafter sometimes referred to as the "City") is a municipality duly formed and existing pursuant to Georgia Law; and

Whereas, the 1983 Constitution of the State of Georgia provides for the self-government of municipalities without the necessity of action by the General Assembly¹; and

Whereas, the City of Woodstock, Georgia has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general laws, and which are not inconsistent with the Constitution or any charter provision applicable thereto²; and

Whereas, the City Council of the City of Woodstock, Georgia desires to amend Chapters 62 and 66 of the Code of Woodstock, Georgia as set forth herein.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL ORDAINS, by the lawful authority vested in them as follows:

Section 1. That Chapter 62 – Parks and Recreation, Article I – In General, Section 62-10 – Sales prohibited is hereby deleted and replaced as follows:

“Sec. 62-10. – Sales or Services prohibited.

¹ Ga. Const. 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows:

"The General Assembly may provide by law for the self-government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly."

² O.C.G.A. §36-35-3(a) provides as follows:

"(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable hereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code Section. This Code Section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly, shall not pass any local law to repeal, modify or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6."

No person shall vend, sell, peddle or offer for sale any service, commodity, or article on any city property or public land except at city sanctioned programs, fairs and events.”

Section 2. That the following definition in Chapter 66 – Peddlers and Solicitors, Article II – Itinerant Merchants, Peddlers, and Solicitors, Section 66-31 – Definitions is hereby deleted as follows:

~~*Itinerant merchant* means any person who idles, stops, or stands for more than 30 minutes at any location within the city, to sell or take orders for any goods, wares, or merchandise; and who, in furtherance of such purposes sets up displays or exhibits, distributes samples, or holds instructional demonstrations on the use of those goods, wares, or merchandise.~~

Section 3. That the following definition in Chapter 66 – Peddlers and Solicitors, Article II – Itinerant Merchants, Peddlers, and Solicitors, Section 66-31 – Definitions is hereby inserted as follows:

“Itinerant merchant means any person who idles, stops, or stands for more than 30 minutes at any location within the city or on city property or public land, to sell or take orders for any services, goods, wares, or merchandise; and who, in furtherance of such purposes sets up displays or exhibits, distributes samples, or holds instructional demonstrations on the use of those services, goods, wares, or merchandise.”

Section 4. That the following definition in Chapter 66 – Peddlers and Solicitors, Article II – Itinerant Merchants, Peddlers, and Solicitors, Section 66-38 – Exemptions, subsection (a), is hereby deleted and replaced as follows:

“(a) Any person who solicits or accepts money, donations, or financial assistance of any kind for any religious, charitable, educational, political, or nonprofit organization with a physical office or affiliation in Cherokee County; sells merchandise for a fee on behalf of such an organization; or who leaves leaflets or flyers or other papers related to such an organization shall be exempt from the registration and license requirements of this article, unless solicitation occurs from a public right of way, in which case a permit may be required per section 66-39. An individual who resides in Cherokee County, soliciting on behalf of any religious, charitable, educational, political, or nonprofit organization, is also exempt from the registration and license requirements of this article, but must comply with section 66-39.”

Section 5. Should any provisions of this Ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any provision thereof other than the provisions specifically declare to be invalid. The Mayor and Council hereby declare that it would have passed this Ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared illegal, invalid or unconstitutional.

Section 6. This Ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA, THIS 12th DAY OF April, 2021.

First Reading Date: March 22, 2021

Second Reading Date: April 12, 2021

Final Adoption Date: April 12, 2021

DocuSigned by:

Donnie Henriques

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DONNIE HENRIQUES, MAYOR
CITY OF WOODSTOCK, GEORGIA

DocuSigned by:

Rhonda Lynn Pezzello

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RHONDA L. PEZZELLO, CLERK
CITY OF WOODSTOCK

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