

INTRODUCED BY: ALDERMAN WITTICH

AN ORDINANCE AMENDING CHAPTER 610, "ITINERANT MERCHANTS, VENDORS, SOLICITORS, CANVASSERS AND PEDDLERS," AND ADDING A NEW CHAPTER 180, "ADMINISTRATIVE PROCEDURE FOR REVIEW OF CERTAIN ACTIONS," OF THE CODE OF ORDINANCES OF THE CITY OF WARSON WOODS

WHEREAS, the U.S. Supreme Court has recognized the prevention of fraud and protecting residents' privacy as important interests that the City may safeguard through a form of regulation of Solicitation, Transient Merchant Activity, and some Canvassing activity; and

WHEREAS, the City of Warson Woods has in the past and again recently had problems with such activity being used to take advantage and defraud the elderly and other members of the City; and

WHEREAS, while the City respects, and desires to protect, freedom of speech rights, at the same time, the City has a duty to protect its citizens from fraud, theft, assault, and other nefarious activities; and

WHEREAS, the City further desires to adopt a process for disputes relating to licenses and other claims against the City to ensure that a full and fair opportunity to be heard has been granted to persons disputing obligations to or actions of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, MISSOURI, AS FOLLOWS:

Section One. Chapter 610, "Itinerant Merchants, Vendors, Solicitors, Canvassers and Peddlers," is hereby amended by repealing the entire Chapter 610 and replacing a new Chapter 610 to read as follows:

"CHAPTER 610: TRANSIENT MERCHANTS, PEDDLERS/SOLICITORS, AND CANVASSERS

SECTION 610.000: LICENSE REQUIRED

It shall be unlawful for any Solicitor/Peddler or Transient Merchant as defined herein to engage in such business within the corporate limits of the City of Warson Woods without first registering with the City Clerk for a license for such business in compliance with the provisions contained herein and pursuant to the authority prescribed by Section 94.110 RSMo. Notwithstanding anything to the contrary herein, however, all recognized charitable organizations or any other bona fide, non-profit, charitable, educational, political, social welfare or religious organization shall be exempt from the terms of this Chapter except that all persons,

firms, corporations or other entities engaging in Solicitation or Transient Merchant Activities within the City shall comply with the hours of operation set forth in Section 610.070 below.

SECTION 610.010: DEFINITIONS

- A. *Canvasser.* Any person, firm, corporation or other entity, whether a resident of the City of Warson Woods or not, which attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of:
1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause; or
 2. Distributing a handbill or flyer advertising a non-commercial event or service.
- B. *Canvassing.* Engaging in the activities described in Subsection (A) above.
- C. *Outdoor Sales Location.* Any area outside a permanent building or structure, including but not limited to any motor vehicle, tent, railroad box car or boat, or any street, alley or other place within the City which is used for the exhibition of products, merchandise, services or personal property of any nature whatsoever and which is located either:
1. In the public right-of-way (whether from a fixed location or mobile, whether within or outside of an automobile, by use of a stand or display, or otherwise); or
 2. Upon property not owned or leased for a term of one (1) year or more by the person engaged in the sale of goods, where the sale of goods occurs immediately adjacent to, or is visible from, the public right-of-way.
- D. *Solicitor/Peddler.* Any person, firm, corporation or other entity, whether a resident of the City of Warson Woods or not, traveling either by foot, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street directly selling goods, wares, merchandise, personal property of any nature whatsoever or services, or taking or attempting to take orders for, or distributing information, whether written or oral, pertaining to the sale of goods, wares and merchandise, personal property of any nature whatsoever, or services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.
- E. *Solicitation.* Engaging in the activities described in Subsection (D) above.
- F. *Transient Merchant.* Any person, firm, corporation or other entity, whether a resident of the City of Warson Woods or not, which engages in the sale of goods, foods, wares, merchandise, personal property of any nature whatsoever or services from an Outdoor Sales Location as defined in Subsection (C). The person so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of associating

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 dealer, trader, merchant or auctioneer.

- G. *Transient Merchant Activity.* Engaging in the activities described in Subsection (F) above. Nothing herein shall apply to the delivery of goods or services to a dwelling by appointment or other regularly scheduled delivery date.

SECTION 610.020: LICENSE APPLICATION; ISSUANCE OF LICENSE

Prior to engaging in Solicitation or Transient Merchant Activities within the City, each person who will engage in those activities within the City must have submitted a written application and administration fee to, and have been issued a valid license by the City of Warson Woods. Each license is unique to the individual who is seeking to undertake Solicitation or Transient Merchant Activities. There shall be a waiting period of up to five (5) business days for the City Clerk to confirm the completion of the application in accordance with this Section and to complete the inquiry under Section 610.040 of this Chapter. *The license issued by the City shall, unless revoked by the City, entitle the holder to conduct his or her business within the City in compliance with this Chapter for the time period prescribed therein.*

Written application shall be made to the City Clerk on a form supplied by the City. The applicant shall at a minimum provide the City with the following information:

- A. Full name, phone number, and address of the person seeking the license; and
- B. The full name, phone number, and address of the applicant's supervisor, manager, employer, supplier, and/or other person to whom the applicant is accountable; and
- C. The full legal name, phone number, and address of the business or entity with whom the applicant is associated; and
- D. The type or nature of the business in which the licensee will engage within the City and for which the license is desired; and
- E. A general description of the thing or things to be sold, or copies of literature to be distributed may be substituted for this description at the option of the applicant; and
- F. The length of time for which the license is desired (not to exceed six (6) months); and
- G. A statement as to whether or not the applicant has been convicted of any crime within the last five (5) years, and if so, the nature of the offense and the penalty imposed; and
- H. A statement by the applicant as to whether such a permit has been denied or revoked by any other governmental entity, and if so, the name of each governmental entity denying or revoking said permit, the reason for each denial or revocation, and the date of each denial or revocation; and

- I. The place of residence of the applicant for the five (5) years immediately preceding the date of the application; and
- J. All applicants shall provide proof of identification in the form of any documentary evidence recognized by the Missouri Department of Revenue when processing an application for a driver's license, or any document issued by the federal government or state of the United States that confirms a person's identity; and
- K. Where the Solicitation or Transient Merchant Activities involve sales of food, a copy of a County Health Department permit, may be requested at a later time by the City Clerk in order to complete the review process of the application; and
- L. In case of Transient Merchants, if a vehicle will be used in connection with the Transient Merchant Activity, the applicant shall provide:
 - 1. A copy of a valid driver's license and a copy of proof of insurance; and
 - 2. Proof of vehicle registration and licensing for all vehicles to be used in connection with the Transient Merchant Activities; and
 - 3. The Outdoor Sales Location(s), as defined in 610.020.C, where the business is to be carried on; and
 - 4. A description of the vehicle to be used, including:
 - a. The name and address of the owner of the vehicle as registered with the Missouri Department of Revenue or other equivalent state agency; and
 - b. A description of the vehicle, giving the name of the manufacturer, serial number, motor number, the name of the record owner, and any other insignia appearing thereon; and
 - c. The date of purchase of the vehicle and the name and address of the person from whom acquired; and
 - d. If the applicant is not the owner, the interest of the applicant in said vehicle; and
 - e. If any person other than the applicant has any interest whatsoever in the vehicle, the name, address, and interest of each such person.
- M. In case of a Solicitor/Peddler, such applicant shall also provide:
 - 1. The web address, where applicable, for the organization, person or group where residents having subsequent questions or concerns can go for more information;

and

2. A copy of the principal's sales tax license as issued by the State of Missouri provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.

- N. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where the applicant engages or engaged in similar activities, etc.

A registration shall be required for all persons who will physically be undertaking Solicitation or Transient Merchant Activities within the City. The blank applications shall be issued, in addition to any license fee required by Chapter 605, to cover the cost of investigation in determining whether a license shall be issued, on payment of Ten Dollars (\$10.00) or such amount as may be set by the City Clerk from time to time to cover administrative costs, which amount shall be credited on the license fee if the license is granted. In the event that the application is denied, no refunds of the investigation fee shall be made. The City Clerk shall not issue a license to any person who fails to fully complete the registration form. Failure to supply the City with truthful information shall be a violation of this Section and grounds to deny the license.

SECTION 610.030: EACH EMPLOYEE OR AGENT TO BE LICENSED

In the event that the applicant shall have more than one (1) employee or agent operating in the City, the applicant shall secure a permit or license for each such employee or agent so operating in the City and each such employee or agent shall submit a like application, paying therewith a fee of ten dollars (\$10.00) as set forth in Section 610.020 hereof.

SECTION 610.040: INQUIRY INTO APPLICANT

Due to the likelihood that a Solicitor's/Peddler's or Transient Merchant's Activities will involve entry upon a person's real property, the direct interaction with persons under the age of eighteen (18), over the age of sixty (60), and disabled persons, the City Clerk, upon receipt of written application for issuance of a license, shall cause a due and proper inquiry to be made into the character of all applicants. The City Clerk shall not grant a license to any person who has pleaded guilty or nolo contendere to, or been convicted of, violating any of the provisions of Section 566.032, RSMo., statutory rape and attempt to commit; or Section 566.067, RSMo., child molestation, first degree; or Section 566.068, RSMo., child molestation, second degree; or Section 566.083, RSMo., sexual misconduct involving a child; or Section 566.086, RSMo., sexual contact with a student while on public school property; or Section 566.151, RSMo., enticement of a child; or Section 566.212, RSMo., sexual trafficking of a child; or Section 566.213, RSMo., sexual trafficking of a child under age twelve; or Subsection 2 of Section 568.020, RSMo., incest; or Section 568.045, RSMo., endangering the welfare of a child in the first degree; or Subsection 2 of Section 568.080, RSMo., use of a child in a sexual performance; or Section 568.090, RSMo., promoting a sexual performance by a child; or Section 573.023, RSMo., sexual exploitation of a minor; or Section 573.025, RSMo., promoting child pornography; or Section 573.035, RSMo., promoting child pornography in the second degree; or

Section 573.037, RSMo., possession of child pornography; Section 573.040, RSMo., furnishing pornographic material to minors; Section 570.145 RSMo., financial exploitation of the elderly and disabled; or any felony relating to weapon offenses, theft, fraudulent activities, property damage, or crimes against the person including, but not limited to, burglary, robbery, assault, murder, fraud, or arson as such felonies are defined in Chapter 569 RSMo., Chapter 565 RSMo., Chapter 571 RSMo., and Chapter 570 RSMo.

SECTION 610.050: LICENSE NOT TRANSFERRABLE

A license issued under the provisions of this Chapter shall not authorize any person or persons, except the identical person(s) named in said license to engage in business thereunder, and such license shall not be transferable. It shall be considered a violation of this Chapter to allow another person, other than the person named in the license, to use the license in any manner.

SECTION 610.060: PROMINENT DISPLAY OF LICENSE

While engaging in Solicitation or Transient Merchant Activities within the City, Solicitors/Peddlers or Transient Merchants must at all times display on their person in an obvious and observable manner a valid, current license issued by and on file with the City.

SECTION 610.070: HOURS OF OPERATION

All persons, firms, corporations or other entities engaging in Solicitation or Transient Merchant Activities shall be permitted to conduct such activities within the City only between the hours of 9:00 A.M. and 5:00 P.M., Monday through Saturday.

SECTION 610.080: REFUSAL TO LEAVE PREMISES

No person, firm, corporation or other entity engaged in Solicitation, Canvassing or Transient Merchant Activities shall fail or refuse to leave any building, any enclosed or improved real estate, lot, parcel of ground or any other private property in the City when requested to leave by the owner or occupant.

SECTION 610.090: GENERAL PROHIBITIONS

A. No Solicitor/Peddler, Canvasser or Transient Merchant shall:

1. Enter upon any private property where the property has clearly posted a sign or decal visible from the right-of-way (public or private) indicating a prohibition against Solicitation, Canvassing and/or Transient Merchant Activities. Such sign or decal need not exceed one (1) square foot in size and may contain words such as “No Soliciting” or “No Solicitors”; and
2. Remain upon any private property where a notice in the form of a sign or decal, which contains the words “No Soliciting” or “No Solicitors,” is placed upon any door or entranceway leading into the residence or dwelling through which guests

would normally enter, and is visible; and

3. Use or attempt to use any entrance other than the front or main entrance to the dwelling, including any designated path to that front door. If the residence or dwelling does not have a front entrance or it is obvious that the front entrance is not used, he/she shall use such entrance as is most obviously used as a guest entrance, but he/she shall not go from door to door in the residence in an attempt to avoid a “No Solicitation” or “No Solicitors” sign or decal nor travel across the grass, garden or yard area of a dwelling; and
 4. Remove any yard sign, door or entrance sign or decal that gives notice to such person that the resident or occupant does not invite visitors; and
 5. Misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any service or goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents.
- B. In addition to the other regulations contained herein, a Solicitor/Peddler, Canvasser or Transient Merchant leaving handbills or flyers about the community shall observe the following regulations:
1. No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The City may remove any handbill or flyer found within the right-of-way; and
 2. No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property; and
 3. No handbill or flyer shall be left at or attached to any property having a “No Solicitation” or “No Solicitor” sign or decal of the type described in Subsection (A) above.
- C. Transient Merchants selling goods, wares, merchandise, personal property of any nature whatsoever or services at an Outdoor Sales Location(s) described in Section 610.020.C, shall not vend on streets where the speed limit exceeds thirty (30) miles per hour.
- D. A Transient Merchant utilizing a vehicle in a Transient Merchant Activity shall observe the following regulations:
1. A Transient Merchant shall not drive in reverse in order to make or attempt a sale and shall observe all traffic regulations; and
 2. A Transient Merchant shall not permit any person under sixteen (16) years of age nor any unauthorized person to ride in or on the vehicle; and

3. A person shall not ride in or on a vehicle utilized in a Transient Merchant Activity unless employed by its owner or unless authorized in writing to do so by the owner.
- E. The prohibitions contained in Subsection A(1-3) and B(1-2) of this Section shall not apply when a Solicitor/Peddler, Canvasser or Transient Merchant has the express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any property whether posted or not.
- F. The prohibitions in this Section shall also not apply when a Solicitor/Peddler, Canvasser or Transient Merchant wishes to place an ad or the like in any newspaper of general circulation in the City.

SECTION 610.100: REVOCATION.

Any license issued under the provisions of this Chapter, shall be subject to revocation by the City Clerk upon satisfactory proof of a violation of the provisions of this Chapter by such licensee, provided, however, that such licensee shall be given notice of such proposed revocation and reasonable opportunity to appear before the City Clerk at the hearing when such revocation is considered.

- A. *Grounds for Suspension or Revocation.* The grounds for suspension or revocation of a license issued pursuant to this Chapter shall include, but not be limited to, the following actions:
 1. The license held by the licensee was obtained through materially false statements in the application for such license or renewal thereof; or
 2. The licensee failed to make a complete disclosure of all pertinent information in the application for such license or renewal thereof; or
 3. The licensee, since the issuance of such license, has ceased to be the person actually engaged in the activity for which the license was issued; or
 4. Anything has occurred which would render the licensee or the licensed premises ineligible or unsuitable for a license under the provisions of this Chapter; or
 5. That such licensee is in violation of any Federal, State, County or City law; or
 6. That the conduct of the business violates, or the licensed premises or the licensee are in violation of, any provision of the City Code or State Law; or
 7. A licensee is conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public; or
 8. A licensee has otherwise violated any of the provisions of this Chapter.

B. *Procedure.*

1. The Police Chief shall conduct a hearing to determine if any license issued under authority of this Chapter should be suspended or revoked.
2. The licensee shall be given not less than five (5) days written notice prior to the hearing. The notice shall set out the reasons for which the hearing is called and shall command the person holding the license to be present at such hearing and show cause, if any, why such license should not be suspended or revoked. Such notice shall be served by mailing said notice to the licensee at the address given in the application for the license hereunder. The Police Chief shall render a final decision and report such decision to the licensee within five (5) business days after the date of the hearing.
3. The licensee shall have the right to appeal the decision of the Police Chief, as set out in Chapter 180 of the Municipal Code (Administrative Procedure for Review of Certain Actions).

SECTION 610.110: DURATION.

No license shall be valid for a period of more than six (6) months.

SECTION 610.120: AGE RESTRICTIONS

No person under eighteen (18) years of age shall be eligible to obtain a license under this Chapter.

SECTION 610.130: VENDOR PROGRAM SPONSOR LICENSE

A. *Definitions.* For the purposes of this Section the following terms shall be deemed to have the meaning indicated below:

SPONSOR: Any person, firm, partnership, association, corporation, or other entity, or any combination of the same, which acts as a sponsor in organizing and coordinating a Vendor Program.

VENDORS: Any itinerant merchants, hawkers, peddlers, brokers, vendors, sellers or buyers which do not normally engage in business within the City.

VENDOR PROGRAM: Any five (5) or more vendors doing business in concert and in coordination for a period of seventy-two (72) hours or less in a district zoned as commercial by the City.

B. *Vendor Program Sponsor License.* Any sponsor must obtain a Vendor Program Sponsor License from the City for each Vendor Program. Any applicant for this license must file an application with the City Clerk substantially similar to the application specified in Section 610.020 of the Code. Before obtaining the Vendor Program Sponsor License, the Sponsor must

submit a notice to the State Department of Revenue, and a copy of such notice must have been received by the City, listing each individual vendor who will participate in the Vendor Program and listing the sales tax number of each such vendor.

C. *License Fee.* The cost of a Vendor Program Sponsor License shall be one hundred dollars (\$100.00).

D. *No License For Vendors.* Notwithstanding any other provision of this Title, if a sponsor obtains a Vendor Program Sponsor License, the individual vendors in the Vendor Program covered by the license shall not be required to obtain any business license from the City to engage in their business through the Vendor Program.

SECTION 610.140: PENALTY

Any person, firm, corporation or other entity violating any of the provisions of this Chapter shall be subject to the penalties prescribed under Section 100.140 of the Municipal Code of the City of Warson Woods.”

Section Two. The Code of Ordinance of the City of Warson Woods is further amended by adding a new Chapter 180 to read as follows:

“CHAPTER 180: ADMINISTRATIVE PROCEDURE FOR REVIEW OF CERTAIN ACTIONS

SECTION 180.000: DEFINITIONS

As used in this Chapter, the following terms shall be defined as follows:

AGGRIEVED: A person directly impacted by an action or decision of the City such that the person would have standing in a court of law to challenge the action.

BOARD: The Board of Administrative Review established herein.

FINAL ACTION: Means:

1. Any action or decision for which no further review or amendment is contemplated or apparent, other than through this procedure, and
2. Any temporary or interim action or failure to act for which immediate irreparable injury will occur prior to any final action being taken.

UNLAWFUL: Any act or omission in violation of any applicable law or actions that are not authorized by any applicable law.

SECTION 180.010: SCOPE AND PURPOSE

The administrative review procedures set forth in this Chapter shall apply to all final actions of any City Officer, employee, board, commission, or the Board of Aldermen that are claimed by an aggrieved party to be unlawful or an unconstitutional taking of property without compensation; provided however, that this Chapter shall not apply to appeals of zoning decisions required to be reviewed by the Board of Adjustment pursuant to Section 89.090, RSMo. The City shall not intentionally take any action that is unlawful nor shall it unconstitutionally deprive property owners of real property interests without just compensation. This Chapter shall be construed to provide for the objective and fair review of claims by aggrieved persons asserting unlawful actions of the City or unconstitutional deprivation of vested real property rights or interests, without just compensation. Nothing contained herein shall be construed to limit the ability of the City to lawfully fulfill its duties and functions.

SECTION 180.020: ESTABLISHMENT OF, AND REVIEW BY, ADMINISTRATIVE REVIEW BOARD -- EXHAUSTION REQUIRED

A. There is hereby established the Administrative Review Board to review petitions pursuant to this Code of Administrative Procedure. The Board of Aldermen hereby designates the Board of Adjustment of the City of Warson Woods to act as the Board of Administrative Review (hereinafter referred to as "the Board") to hear and consider petitions within the scope of this Code. The Board may establish additional procedures to fulfill the purposes of this Chapter.

B. Any aggrieved party shall petition to the Board for a review of any final decision of any City Officer, employee, board, commission, or the Board of Aldermen. To the fullest extent permitted by law, the review procedures herein shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials or commissions.

SECTION 180.030: REVIEW PROCEDURE

The following procedures for review of a final action shall be followed:

1. *Final decision.* The person petitioning for review shall obtain a final decision before requesting review.

2. *Petition for review.* Within ten (10) days from the date of the final decision, the person requesting the review shall file, in the office of the City Clerk, a written petition for review of that decision. A copy shall also be filed with the City Attorney.

3. *Initial review of decision.* The City Clerk, in consultation with the City Attorney where appropriate, shall review each petition and determine whether it seeks review authorized by this Code. In the event that the petition does not allege a review authorized by this Code, the petition shall be dismissed upon direction of the City Clerk.

4. *Stay of final action.* Upon request of the petitioner, the Board may stay pending its review the final action of any decision, other than a decision of the Board of Aldermen, upon a showing:

- a. The petitioner has a substantial likelihood of demonstrating that the final action to be reviewed is unlawful or an unconstitutional taking,
- b. Irreparable harm if such stay is not issued, and
- c. The public interest would not be harmed by issuance of such stay.

Where the final action is a decision of the Board of Aldermen, the petitioner may seek such stay from the Board of Aldermen, whereupon in its discretion, such stay may be granted pending review by the Board.

5. *Hearing date.* The Board shall set a time to review the decision that gave rise to the petition as soon as reasonably practical and shall provide public notice of such meeting. The Board shall hear and consider the evidence related to and submitted by the petitioner, the City or other interested parties in the discretion of the Board. The hearing shall include written submittals.

6. *Hearing requirements.* Unless a hearing or the requirements herein are waived by petitioner, each hearing shall provide a record of the proceedings (by audio, video, stenographic, or other reliable means of recording capable of transcription) and shall permit the parties to introduce evidence under oath, and shall provide for cross-examination, when requested. The formal hearing requirements herein shall be deemed waived if not affirmatively requested by petitioner in its petition.

7. *Removal.* The Board of Aldermen or the Mayor may remove any matter directly to the Board of Aldermen for review by filing notice with the Board to such effect.

8. *Exception.* Nothing herein regarding hearing requirements shall prevent summary decision on any petition where there is no genuine dispute as to the relevant facts.

SECTION 180.040: EXPEDITED REVIEW PROCEDURE

In the event that the aggrieved party claims irreparable harm will occur unless immediate review is granted, the party may request expedited review, upon facts justifying such action alleged by affidavit, whereupon the Board, if it determines it is appropriate, shall shorten the time for submissions and review.

SECTION 180.050: APPLICANT INFORMATION -- SUBMITTAL

A. *Initial Filing Information.* With the petition for review, or within seven (7) days prior to the date of hearing, the petitioner shall submit the following by affidavit:

1. The name of the petitioner requesting review;
2. The precise final action to be reviewed, including the date, the decision maker, and copies of all documentation of the decision;

3. If injury to an interest relating to real property is claimed, the legal description of the property and the name and business address of the current owner of the property; the form of ownership, i.e. whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other; and if owned by other than a real person, the name and address of all partners or shareholders owning ten percent (10%) or more of the outstanding shares;

4. A detailed description of the factual and legal grounds for the claim that the final action is unlawful or constitutes an unconstitutional taking, without just compensation; and

5. A description of the protectable right or property interest claimed to be affected, including a statement of any claimed or threatened damages and the basis for such computation.

B. *Supplemental Information.* If the Board determines that additional information is needed, the Board may further require legal briefing or such other information to be submitted by affidavit as may be deemed necessary for adequate and prompt review. With regard to claims of unconstitutional takings, the Board also requests:

1. The evidence and documentation as to the value of the property interest claimed taken, including the date and cost at the date the property was acquired. This material should include any evidence of the value of that same property before and after the alleged unconstitutional taking; the name of the party from whom purchased, including the relationship, if any, between the person requesting a review; and the party from whom the property was acquired;

2. The terms, including sale price, of any previous purchase or sale of a full or partial interest in the property during the three (3) years prior to the date of application;

3. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;

4. The assessed value of, and ad valorem taxes on, the property for the previous three (3) years;

5. All information concerning current mortgages or other loans secured by the property, including the name of the mortgagee or lender; current interest rate, remaining loan balance and term of the loan and other significant provisions including, but not limited to, the right of purchasers to assume the loan;

6. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;

7. All studies commissioned by the petitioner or agents of the petitioner within the previous three (3) years concerning feasibility of development or utilization of the property;

8. For income producing property, itemized income and expense statements from the property for the previous three (3) years;

9. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and

10. Such additional information reasonably necessary in the Board's opinion, to arrive at a conclusion concerning the nature of and the value of the alleged unconstitutional taking.

SECTION 180.080: REVIEWING GUIDELINES

The Board shall review the facts and information presented by the petitioner and determine if the final action is unlawful or constitutes an unconstitutional taking without just compensation. In doing so, the City Attorney shall serve as legal counsel and shall be consulted. The Board shall review the facts in light of the applicable City, State, and Federal law. An affirmative vote of four (4) of the five (5) members of the Board shall be required to support any decision.

SECTION 180.090: TIME FOR FINAL DECISION

If the Board fails to hear and decide the petition within thirty (30) days after the filing of the petition, the final action of the City Officer, employee, board, commission, or the Board of Aldermen shall be deemed to be submitted to the Board of Aldermen without recommendation pursuant to Section 180.100(A); provided however, the Board may extend the time to reach a decision, not exceeding an additional one hundred twenty (120) days following the receipt of the information required pursuant to this Chapter, if prior to the expiration of the thirty (30) day period, the Board notifies the petitioner, in writing, of such extension.

SECTION 180.100: RESULTS OF REVIEW

A. After completing the review, the Board shall make a determination regarding the petition and, if determined to be necessary and appropriate, make a recommendation to the Board of Aldermen or the appropriate officer, employee, board or commission. The evidence before the Board shall be submitted to the Board of Aldermen for its determination.

B. The Board of Aldermen shall have thirty (30) days to take action on the petition or recommendation of the Board, unless extended by the Board of Aldermen for cause. No petition shall become final for purposes of judicial review of the action subject to review until the effective date of Board of Aldermen action on the petition, or upon expiration of the review period after the petition is submitted to the Board of Aldermen.

SECTION 180.110: REVIEW ADVISORY

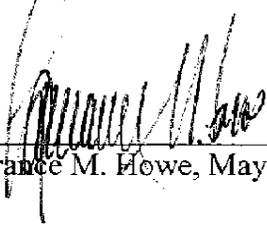
The decisions of the Board rendered pursuant to the provisions of this Chapter are advisory, and shall not be construed to expand or limit the scope of the City's liability for any claimed unlawful action or unconstitutional taking of a vested property interest. The decision of the Board rendered pursuant to the provisions of this Chapter is not admissible in court for any purpose other than to demonstrate that the petitioner has exhausted the requisite administrative remedies, and in no event shall any recommended compensation be admissible into evidence. The decision of the Board of Aldermen pursuant to the preceding Section shall be deemed the final decision

for purposes of judicial review.”

Section Three. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Aldermen would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

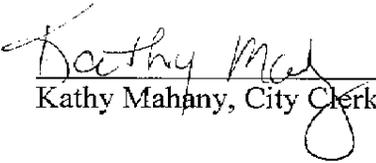
Section Four. This Ordinance shall be in full force and effect on and after its passage and approval by the Board and the Mayor.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, MISSOURI THIS 17th DAY OF MAY, 2011.



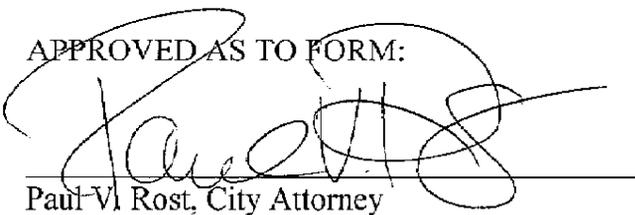
Laurance M. Howe, Mayor

ATTEST:



Kathy Mahany, City Clerk

APPROVED AS TO FORM:



Paul V. Rost, City Attorney