

ORDINANCE No. 2020- 0702C
An Ordinance to Repeal and Replace Chapters 25, 26, and 27 of the
Code of Ordinances of the Town of Williamsport Relating to
Solicitors, Magazine Salesmen, and Peddlers

WHEREAS, the Code of Ordinances of the Town of Williamsport contains provisions in Chapters 25, 26 and 27 relating to the issuance of local permits for peddlers, and the regulations governing their engagement in business; and

WHEREAS, many of the provisions of Chapters 25, 26 and 27 are inconsistent with Indiana law, Federal law, or no longer necessary for regulation of peddlers; and

WHEREAS, the Williamsport Town Council desires to repeal Chapters 25, 26 and 27 of the Code of Ordinances of the Town of Williamsport in its entirety.

NOW THEREFORE, be it ordained by the Williamsport Town Council that Chapters 25, 26 and 27 of the Code of Ordinances of the Town of Williamsport is hereby repealed and replaced with the following.

Peddlers, Itinerant Merchants, and Solicitors

(A) Definitions. For the purpose of this Section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BUSINESS:" The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

"CHARITY." An organization recognized by the Internal Revenue Service and/or Indiana Department of Revenue as a not-for-profit organization.

"GOODS:" Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

"ITINERANT MERCHANT:" Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the municipality and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the municipality.

"PEDDLER:" (1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or (2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the municipality. A person who is a peddler is not an itinerant merchant.

"SOLICITOR:" Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to

be performed in the future. A person who is a solicitor is not a peddler.

(B) No person, partnership or corporation shall solicit, peddle, sell or promote any item, merchandise, service or charity of any nature through door-to-door sales or contacts within the Town of Williamsport, except in compliance with this section.

(C) The requirement to obtain a license under this Ordinance shall not apply to any of the following:

1. Any businesses who regularly visit pre-established customers at their residences, or who are invited onto a homeowner's premises (e.g., Culligan, Mary Kay, Schwan's, etc.).
2. A person under the age of eighteen (18) years ("Juvenile"), engaged in conduct regulated by this Ordinance for a charitable organization, is not required to obtain an individual permit, so long as an adult: (1) complies with all provisions of this Ordinance, including obtaining a permit; (2) agrees to be responsible for the juvenile's actions; (3) remains at all times within twenty-five (25) feet of the juvenile in an open and visible location; and (4) upon request, the juvenile identifies the adult to the requesting party.
3. A person, business, entity, or organization, which owns, leases, or rents at a building or structure, open to the public, within the Town of Williamsport, for a period of at least thirty (30) continuous days prior to engaging in the conduct regulated by this Ordinance.
4. A federal, state, or local municipal police department, fire department, or municipality, or one acting on behalf of any of the aforementioned; a census taker; person seeking election to an office in which residents of the Town may vote; or any person or entity, which the Town Council may deem as exempt on a case-by-case basis, are exempt from this ordinance.

(D) Limitations on Licenses

1. No license issued under this Ordinance shall be transferable.
2. All licenses issued under this division shall expire 90 days after the issuance thereof.
3. No person may be issued a permit, who has been convicted of a felony under: I.C. § 35-42 (Crimes Against a Person), I.C. § 35-42-2 (Burglary), I.C. § 35-42-3 (Robbery) or any crime under:
 - a. I.C. § 35-43-5-3 (Deception)

- b. I.C. § 35-43-5-4 (Fraud)
- c. I.C. § 35-43-5-4.3 (Card Skimming Device)
- d. I.C. § 35-43-5-15 (Fraudulent sales document manufacturing device)
- e. I.C. § 35-43-5-15 (Making false sales document)
- f. I.C. § 35-43-6 (Home Improvement Fraud)

(E) Uninvited Visits to Private Residences. The practice of going in and upon residences in the town by transient salesmen, merchants, and itinerant vendors of goods not having been requested or invited to do so by the owner or occupant of those private residences, for the purpose of soliciting orders for the sale of goods, wares, and merchandise, and of disposing of or peddling or hawking the same, is declared to be a nuisance and punishable as such.

(F) Applications

1. An application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. Applications should be made on forms available in the office of the Clerk-Treasurer. The application shall state:
 - a. The name and address of the applicant;
 - b. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the municipality;
 1. The local address of such individual;
 2. The permanent address of such individuals;
 3. The capacity in which such individual will act;
 - c. The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
 - d. The time period or periods during which it is proposed to carry on applicant's business;
 - e. The nature, character, and quality of the goods to be offered for sale or delivered;
 1. If goods, their invoice value and whether they are to be sold by sample as well as from stock;
 2. If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
 - f. The nature of the advertising proposed to be done for the business;
 - g. Whether or not the applicant or the individual identified in division (1)(b) above, or the person identified in division (1)(c) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense;
 - h. A description of any vehicle proposed to be used in the business,

- i. including its registration number, if any; and
If required by the Clerk-Treasurer, copies of all printed advertising proposed to be used in connection with the applicant's business;

(G) Food Vendors. Persons vending food shall be required to register at the Williamsport Town Hall. At the time of registration, the food vendor shall comply with the following:

1. An application described in Section (F), and
2. The application shall have attached to it a statement from a licensed physician, dated not more than 10 days prior to the date of application, certifying the applicant to be free of contagious or communicable disease, and (b) proof of commercial general liability insurance for food sales in an amount of at least \$1,000,000.00, naming the Town of Williamsport as an additional insured.

(H) A person and/ business entity who violates this ordinance shall be fined \$100.00 per day. Each and every day that a violation occurs, shall be a separate violation and fine. A fine may be assessed against the individual person engaged in the unlawful activity as well as any other person or entity on whose behalf the permit was issued. In addition to a fine, the Town may seek injunctive relief, attorney fees, and actual damages, if any, which may be incurred.

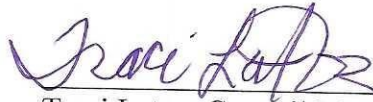
This Ordinance shall be in full force and effect upon passage and legal publication, if necessary.

So ORDAINED this 2nd day of July, 2020.

TOWN COUNCIL OF THE TOWN OF
WILLIAMSPORT, INDIANA



Michael Hutchison, President



Traci Latoz, Council Member



James Lanham, Council Member

ATTEST:



William H. Lucas, Clerk-Treasurer