

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1061

BEING AN ORDINANCE AMENDING PRIOR ORDINANCES REGULATING PEDDLERS AND SOLICITORS AND ESTABLISHING FEES FOR PERMITS FOR SUCH PEDDLERS AND SOLICITORS AND PENALTIES FOR VIOLATIONS OF THE PEDDLERS AND SOLICITORS ORDINANCE IN THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AND REPEAL OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana has previously adopted a peddlers and solicitors ordinance, the same being an ordinance regulating peddling and soliciting in the Town of St. John and establishing fees for applications and permits and establishing fines and penalties for violations of said regulations in the Town of St. John, Lake County, Indiana; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana has amended said ordinance to bring the same into compliance with the state statutes as well as case law decisions; and

WHEREAS, it has become necessary to again amend the peddlers and solicitors ordinance in several respects to bring the same into compliance with current case law decisions as well as to change the fees charged.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of St. John, Lake County, Indiana as follows:

SECTION 10-51: DEFINITIONS.

For the purpose of this chapter, 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.

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 town and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the Town.

Peddler. Any person, not an itinerant merchant, who:

- (1) Travels from place to place by any means carrying

goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the Town.

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.

SECTION 10-52: EXEMPTIONS.

A. Nothing in this ordinance shall be held to include persons selling for a bona fide wholesale establishment to retail dealers in the Town, or apply to acts of bona fide local merchants or businessmen of the Town or their employees in taking orders in the houses of their customers for goods or services, or to the acts of said merchants or businessmen or their employees in delivery of goods so ordered by their customers.

B. The Clerk-Treasurer shall issue a free license (without charge) to any local club or organization making sales on a charitable or nonprofit basis.

SECTION 10-53: LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the Town.

(B) The fee for the license required by this chapter shall be as set from time to time by the Town Council and shall be, unless changed, the sum of \$100.00.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire (ninety) 90 days after the date of issuance thereof.

SECTION 10-64: APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the Clerk and shall pay an application fee of \$25.00 which shall be credited against the permit fee, if approved. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant.

(2) (a) 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 town.

(b) The local address of such individual.

(c) The permanent address of such individual.

(d) The capacity in which such individual will act.

(3) 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.

(4) The time period or periods during which it is proposed to carry on applicant's business.

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered.

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock.

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application.

(6) The nature of the advertising proposed to be done for the business.

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant.

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the Town, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also

attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten (10) days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

SECTION 10-65. STANDARDS FOR ISSUANCE AND INSURANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts;

will constitute valid reasons for disapproval of an application.

(C) Should the application for the license required by this ordinance provide for the use of a motor vehicle or automobile by the applicant, the applicant shall file a certificate of insurance with the Clerk-Treasurer establishing that liability insurance in minimum amounts of \$50,000.00 for personal injuries or death to any one person, \$100,000.00 for personal injuries or death in any one occurrence, and \$50,000.00 for property damage.

SECTION 10-66. REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in § 10-67. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten (10) days prior to the date set for the hearing.

SECTION 10-67: STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application; or

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or

(C) Any violation of this chapter; or

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

SECTION 10-68: APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 10-65 or 10-67 shall have the right to appeal to the Town Council. The appeal shall be taken by filing with the Town Council, within fourteen (14) days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Town Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 10-66.

(B) The order of the Town Council after the hearing shall be final.

SECTION 10-69: EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the Town shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor", the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

SECTION 10-70: TOWN POLICY ON SOLICITING.

It is hereby declared to be the policy of the Town that the

occupants of the residences in the Town shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

SECTION 10-71: NOTICE REGULATING SOLICITING.

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three (3) inches by four (4) inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO SOLICITORS INVITED"

(B) The letters shall be at least 1/3-inch in height.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

SECTION 10-72: DUTY OF SOLICITORS TO ASCERTAIN NOTICE.

(A) It shall be the duty of every solicitor upon going onto any premises in the Town upon which a residence is located to first examine the notice provided for in § 10-71 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

SECTION 10-73: PROHIBITED SOLICITATION.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 10-71 above.

It is also hereby declared to be unlawful for anyone to in any way violate the provisions of this ordinance. For each violation of this ordinance, a penalty shall be assessed in the sum of \$150.00 and for each day said violation continues, each separate day shall constitute a separate violation under this ordinance.

BE IT FURTHER ORDAINED that all existing ordinances, or parts thereof, in conflict with the provisions of this ordinance, are hereby deemed null, void, and of no legal affect and are specifically repealed.

BE IT FURTHER ORDAINED that if any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this ordinance.

BE IT FURTHER ORDAINED that the Town Council declares an emergency and that this ordinance shall take effect and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana, pursuant to law.

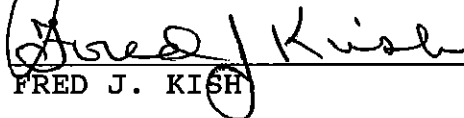
PASSED AND ADOPTED by the Town Council of the Town of St. John, Lake County, Indiana, this 29th day of ~~December, 1997.~~

January, 1998

TOWN COUNCIL, TOWN OF ST. JOHN,
LAKE COUNTY, INDIANA



JOHN R. TAYLOR



FRED J. KISH

DOUGLAS E. PATTERSON

ATTEST:



JUDITH L. COMPANIK
Clerk-Treasurer

PROOF OF POSTING OF NOTICE
OF ORDINANCE #1061

I, Judith L. Companik, Clerk-Treasurer of the Town of St. John, Lake County, Indiana hereby certify that on January 30, 1998, I did post in three (3) public places located in the municipal corporation a copy of Ordinance #1061 being an ordinance amending prior ordinances regulating peddlers and solicitors and establishing fees for permits for such peddlers and solicitors and penalties for violations of the peddlers and solicitors ordinance in the Town of St. John, Lake County, Indiana, and repeal of ordinances in conflict therewith. The ordinance was in the form attached and made apart of this certification.

I further certify that the notice was posted in each of the following places:

St. John Municipal Building, 10955 West 93rd Avenue, St. John, Indiana

St. John Public Library, 9450 Wicker Avenue, St. John, Indiana

Bank One, 9209 Wicker Avenue, St. John, Indiana

January 30, 1998


JUDITH L. COMPANIK
Clerk-Treasurer