

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. CANVASSERS AND DIRECT SELLERS

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Consent of town granted to state to issue liquor permits

§ 110.01 CONSENT OF TOWN GRANTED TO STATE TO ISSUE LIQUOR PERMITS.

The consent of the town is hereby given and granted to the proper legal authorities of the state, to issue liquor retailer's permits for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the town, all agreeable to the provisions of Section 18 of an Act of the General Assembly of the state entitled "An Act concerning alcoholic beverages, liquids and substances, and to promote temperance, repealing laws and parts of laws and declaring an emergency," approved March 11, 1935.

(Ord. passed 7-26-71)

Statutory reference:

Ordinance authorizing liquor permits - towns under 5,000, see I.C. 7.1-3-9-3

CHAPTER 111: CANVASSERS AND DIRECT SELLERS

Section

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REGULATION OF CANVASSERS**§ 111.01 REGISTRATION REQUIRED.**

It shall be unlawful for any person to engage in canvassing within the corporate limits of the town without being registered for that purpose as herein provided.

(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

CANVASSER. Any person, whether acting on their own or on behalf of another person, corporation or other entity who engages in canvassing as herein defined.

CANVASSING. Any act of a person going from house to house, door to door or business to business for any purpose including, but not limited to, the conducting of a survey, the dissemination of any written materials, objects or products and any act of solicitation, including solicitation of information.

(Ord. 2009-11, passed 9-15-09)

§ 111.03 EXCEPTIONS.

The provisions of this subchapter shall not apply to the following persons:

(A) Officers or employees of the town, an Indiana county, the state or federal government, or any subdivision thereof, when on official business.

(B) Legitimate candidates for national, state and local public office and their authorized individuals working for the candidates when the candidates or their authorized agents are engaged in an election campaign for public office.

(C) Authorized individuals soliciting donations, contribution or membership to recognized charitable and religious organizations.

(D) Authorized individuals soliciting donations, contributions or membership for recognized service and fraternal organizations that have an organized chapter or body located within the town or the State of Indiana.

(Ord. 2009-11, passed 9-15-09)

§ 111.04 REGISTRATION; FEE.

(A) *Registration with Clerk-Treasurer.* Before any person shall engage in an act of canvassing he or she shall register with the Clerk-Treasurer and shall give his or her complete identification, his or her signature, the name of his or her employer, the nature and purpose of his or her canvassing, the name or names of the organization or entity for which he or she is soliciting, the make, model, color and license plate number of any vehicle being used during his or her canvassing, the purpose of his or her canvassing and the proposed method of operation in the town.

(B) *Fee.* Each registrant shall pay to the Clerk-Treasurer a registration fee of \$10 to cover the process cost of the registration.

(C) *Valid registration.* Upon proper registration pursuant to this subchapter and the payment of the fee by the registrant, the registration shall be valid for the person for a period of 30 days, commencing on the date that the fee is paid for the registration to the Clerk-Treasurer.

(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.05 CONDUCT REGULATIONS.

The following regulations shall govern the conduct of registrants hereunder:

(A) It shall be unlawful for any canvasser to call at any dwelling, business or other place before 8:00 a.m. and after 30 minutes before sunset, except by appointment.

(B) It shall be unlawful for any canvasser to remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(C) It shall be unlawful for any canvasser to misrepresent or make false, deceptive or misleading statements while engaged in canvassing, the purpose of his visit, his identity or the identity of the organization he represents.

(D) It shall be unlawful for any canvasser to impede the free use of sidewalks and streets by pedestrians and vehicles.

(E) It shall be unlawful for any canvasser to allow any written materials or other rubbish or litter to be dropped, thrown or left on the sidewalks, streets, yards, vehicles, parks, residences or businesses within the corporate limits of the town.

(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.06 LICENSE REVOCATION.

Any registration pursuant to this subchapter may be revoked by the Clerk-Treasurer because of any violation by the registrant of this subchapter or of any other ordinance of the town, or of any state or federal law, and upon revocation of the registration of any canvasser any further act of canvassing by that person shall result in a violation of this subchapter and the application of the appropriate penalties therefor.

(Ord. 2009-11, passed 9-15-09) See Penalty, § 111.99

LICENSING AND REGULATION OF DIRECT SELLERS**§ 111.20 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

CHARITABLE ORGANIZATION. Shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

DIRECT SELLER. Any individual who, for himself or herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

GOODS. Shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

PERMANENT MERCHANT. A direct seller who, for at least one year prior to the consideration of the application of this subchapter to merchants, has continuously operated an established place of business in this town or has continuously resided in this town and now does business from his residence.
(Ord. 2009-11, passed 9-15-09)

§ 111.21 EXEMPTIONS.

The following shall be exempt from all provisions of this subchapter:

(A) Any person delivering newspaper, fuel, dairy products or bakery goods to regular customers on established routes.

(B) Any person selling goods at wholesale to dealers in those goods.

(C) Any person selling agricultural products which that person has grown or produced in Hendricks County, and is being sold by a resident of the county.

(D) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by the merchant within the town and who delivers goods in their regular course of business.

(E) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by the person.

(F) Any person who has had, or one who represents a company which has a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.

(G) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

(H) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(I) Any employee, officer or agent of a charitable organization which has secured a permit as provided for elsewhere in this code.
(Ord. 2009-11, passed 9-15-09)

§ 111.22 REGISTRATION; BONDING.

(A) Applicants must complete and return to the Clerk-Treasurer at least three days before the applicant shall be authorized to do business, a registration form furnished by the Clerk-Treasurer, which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any.

(2) Age, height, weight, color of hair and eyes.

(3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold.

- (4) Temporary address and telephone number from which business will be conducted.
- (5) Nature of business to be conducted and a brief description of the goods offered, and any services offered.
- (6) Proposed method of delivery of goods, if applicable.
- (7) Make, model and license number of any vehicle to be used by applicant in the conduct of business.
- (8) The last three previous cities, villages or towns where applicant conducted similar business.
- (9) Permanent address of applicant and place where applicant can be contacted for at least 60 days after cessation of selling activities in town.
- (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(B) The application shall be accompanied by a bond in the amount of \$5,000 executed by a surety company, or a cash bond of equal amount, the bond conditioned that all goods, wares, merchandise or articles sold by the applicant will be as represented. Any person aggrieved by the action of a licensed direct seller hereunder shall have a right of action on the bond or other surety for the recovery of money or damages or both if said action is commenced within 60 days after the expiration of any license issued upon the bond or surety. After 60 days, the surety or cash bond shall be released if no action is commenced.

(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.23 REQUIRED INFORMATION.

Each applicant shall present to the Clerk-Treasurer for examination the following:

- (A) A driver's license or some other proof of identity as may be reasonably required.
- (B) A state certificate of examination and approval from the Sealer of Weights and Measures where applicant's business requires use of weighing and measuring devices approved by state authorities.
- (C) A State Health Officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; the certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(D) An Indiana Department of Revenue retail sales certificate.
(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.24 LICENSE; FEES.

(A) At the time the registration and surety are returned and the bond approved by the Clerk-Treasurer, a license shall be issued by the Clerk-Treasurer to the applicant to begin business not less than three days after the date of filing the application and bond, upon payment of the following fees:

- (1) For one day: \$50.
- (2) For one week: \$300.
- (3) For one month: \$1,000.

(B) Upon payment of the fee, the Clerk-Treasurer shall register the applicant as a direct seller, date the entry and issue the license. If any licensee desires to continue in business after the expiration of the license, a new license must be secured in the same manner and upon the same terms as the original license, subject to subsequent refusal as provided in § 111.25.
(Ord. 2009-11, passed 9-15-09)

§ 111.25 INVESTIGATION.

(A) Upon receipt of each application, the Clerk-Treasurer may refer it immediately to the Chief of Police, who may make and complete an investigation of the statements made in the registration.

(B) The Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that any of the following apply:

- (1) The application contains any material omission or materially inaccurate statement.
- (2) Complaints of a material nature have been received and proven against the applicant by authorities in the three previous cities, villages and towns in which the applicant conducted similar business.
- (3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling.

(4) The applicant failed to comply with any applicable provisions of § 111.22.
(Ord. 2009-11, passed 9-15-09)

§ 111.26 APPEAL.

Any person whose registration is denied or revoked may appeal the denial through the appeal procedure provided by ordinance or resolution of the town.
(Ord. 2009-11, passed 9-15-09)

§ 111.27 REGULATIONS.

The following regulations shall govern the conduct of registrants hereunder.

(A) It shall be unlawful for any direct seller to do any of the following:

(1) Call at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment.

(2) Call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning.

(3) Call at the rear door of any dwelling place.

(4) Remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(B) It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his or her visit, his or her identity or the identity of the organization he or she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose of which the organization is soliciting. That portion shall be expressed as a percentage of the sale price of the goods.

(C) It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(D) It shall be unlawful for any direct seller to make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

(E) It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(Ord. 2009-11, passed 9-15-09) Penalty, see § 111.99

§ 111.28 DISCLOSURE REQUIREMENTS.

The following requirements shall govern the conduct of registrants:

(A) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his or her name, the name of the company or organization he or she is affiliated with, if any, and the identity of goods or services he or she offers to sell.

(B) If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the sellers, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25.

(C) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether in full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, terms thereof.

(Ord. 2009-11, passed 9-15-09)

§ 111.29 RECORDS.

The Chief of Police shall report to the Clerk-Treasurer all judgments for violation of this subchapter and the Clerk-Treasurer shall note any violation on the record of the registrant.

(Ord. 2009-11, passed 9-15-09)

§ 111.30 REVOCATION.

The registration of a direct seller may be revoked by the Town Council for any violation of this subchapter.

(Ord. 2009-11, passed 9-15-09)

HANDBILLS**§ 111.40 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodgers, circular, leaflet, pamphlet, papers, booklet or any other printed matter which:

- (1) Advertises for sale any merchandise, product, commodity or thing;
- (2) Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

NON-COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodgers, circular, leaflet, pamphlet, paper, booklet or any other printed matter not included in the definition of a commercial handbill as set out above.

PRIVATE PREMISES. Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continually uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to the dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

(Ord. 2009-11, passed 9-15-09)

§ 111.41 PROHIBITED DISTRIBUTION.

(A) *Throwing or distributing in public places.* No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town; nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it is not unlawful on any sidewalk, street or other public place within the town for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

(B) *Placing on vehicles.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(C) *Depositing on uninhabited or vacant private premises.* No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continually uninhabited or vacant.

(D) *Distribution prohibited where signs posted.* No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone there not to do so, or if there is a place on the premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing", "No Peddlers or Agents", "No Advertisement" or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any handbills left upon the premises.

(E) *Distributing at inhabited private premises.* No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are uninhabited, except by handing or transmitting any handbill directly to the owner, occupant or other person then present in or upon the private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this subchapter, the person, unless requested by anyone upon the premises not to do so, may place or deposit any handbill in or upon the inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers, except that the newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. 2009-11, passed 9-15-09)

§ 111.99 PENALTY.

(A) Any person, firm or corporation violating any provision of this chapter may be fined any dollar amount not to exceed \$2,500; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(B) In addition to the penalty provided for in division (A), any act of any person, firm or corporation violating any provisions of §§ 111.01 through 111.06 is declared to be a nuisance and all remedies applicable to a nuisance, both public and private, including, but not limited to, injunction and damages, are preserved.

(Ord. 2009-11, passed 9-15-09)

