

ORDINANCE NO. 031423A

**ORDINANCE AMENDING TITLE XI, CHAPTER 110 OF THE
McCORDSVILLE CODE OF ORDINANCES**

WHEREAS, pursuant to Ordinance No. 031202C, approved March 12, 2002 by the Town Council of the Town of McCordsville, Indiana and all subsequent amendments thereto, certain procedures have been put in place with regard to the licensing and conduct of peddlers and itinerant merchants within McCordsville, Indiana; and

WHEREAS, certain amendments to Chapter 110 have been suggested by members of the staff of McCordsville, Indiana, which the Town Council of the Town of McCordsville, Indiana believes to be in the best interest of the health, safety, and welfare of the citizens of McCordsville, Indiana, and the efficient management of the practice and procedure of peddlers and itinerant merchants with McCordsville, Indiana.

THEREFORE BE IT ORDAINED by the Town Council of the Town of McCordsville, Indiana that:

SECTION I

Title XI, Chapter 10, § 110.04 shall be deleted in its entirety and inserted in lieu thereof shall be the following:

§ 110.04 APPLICATION FOR CERTIFICATE OF REGISTRATION.

(A) Any person desiring to engage in the occupations herein sought to be regulated, before engaging in that occupation in the town, shall apply to the Town Manager for a certificate of registration. The application for a certificate of registration shall be made on a form to be provided by the Town Manager, which shall require that the applicant give the following information:

- (1) Name, age, height, weight, color of hair of applicant;
- (2) Permanent home address and local address of applicant;
- (3) The name and address of the employer or the name and address of the person, firm or corporation furnishing the goods, wares and/or merchandise sought to be sold;
- (4) The length of time, within the period of time stated in § 110.05, that the applicant is expecting to be soliciting or peddling within the corporate limits of the town;
- (5) The approval of both the Town Manager and the Chief of Police, or, in the event of their absence, their designees;
- (6) Business applicant and/or the firm he or she seeks to represent, in whatever

capacity; and

(7) A copy of the applicant's Indiana state issued photo identification or other state recognized photographic identification.

(B) The Town Manager or the Town Manager's designated agent may deny the application if the application does not completely and correctly provide the required information and documentation.

SECTION II

Title XI, Chapter 110, § 110.05 (A)(1), (2) and (3) shall be deleted and inserted in lieu thereof shall be the following:

(1) For a ten-day permit, excluding Sundays and holidays, the sum of \$50 for the originating application, and \$10 for each individual applicant operating for, on behalf of, or in any way benefiting the original applicant. Said ten-day permit may be renewed an unlimited number of times between the months of April and October each calendar year by payment once again of the sums set forth herein associated with the original application.

(2) For a 120-day permit, excluding Sundays and holidays, the sum of \$450 for the original applicant with any additional applicant operating for, on behalf of, or in any way benefiting the original vendor, to be issued a permit at no additional charge.

SECTION III

Title XI, Chapter 110, § 110.08 shall be deleted in its entirety and inserted in lieu thereof shall be the following:

§ 110.08 RESTRICTIONS ON PEDDLERS AND ITINERANT SOLICITORS.

(A) It shall be declared to be a public nuisance and shall be deemed unlawful for any itinerant solicitor or itinerant peddler engaging in the occupation herein regulated and carrying a certificate of registration to enter upon any private property for these purposes prior to 10:00 a.m. or after 6:00 p.m. local time or at any time on Sundays or recognized Federal, State, and Local holidays.

(B) It shall be unlawful for any itinerant solicitor or itinerant peddler engaging in the occupation herein regulated in carrying a certificate of registration to enter upon, to ring the bell, knock on the door, or otherwise attempt to gain admittance upon any private property for the purpose of peddling or soliciting at any residence, dwelling or place of business at which a sign bearing the words "No Solicitors" (or words of similar import indicating that solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view; provided, that this section shall not apply to any peddler or solicitor who rings the bell, knocks on the door, or otherwise attempts to gain admittance to such residence, dwelling, or place of business at the invitation or with the consent of the occupant thereof.

SECTION IV

Title XI, Chapter 110, § 110.10 shall be deleted in its entirety and inserted in lieu thereof shall be the following:

§ 110.10 REVOCATION.

Certificates of registration issued under the provisions of this chapter may be revoked by the Town Manager and/or the Police Chief for any of the following reasons:

(A) Fraud – misrepresentations or false statements contained in the application for the certificate of registration.

(B) Fraud – misrepresentations made in the course of carrying on the business of peddling or soliciting.

(C) Conducting the business of peddling or soliciting in an unlawful manner, or in a manner so as to constitute a breach of the peace and to constitute a menace of the health, safety or general welfare of the public.

(D) Any violation of this chapter or of the certificate of registration provisions of this chapter, or statutes of the state.

(E) Two or more written and sworn complaints have been delivered to the Town Manager verified, under oath, regarding allegedly untruthful or illegal conduct concerning the licensed itinerant merchant and/or peddler and/or their employees or agents during their door-to-door solicitations.

(F) Any such revocation shall be in writing, shall state thereon the effective date of the revocation, the reasons for the revocation and shall be served by the U.S. Postal System, certified mail, return receipt requested, or by personal service on the licensee at their address as contained in their application.

(G) No application, certificate of registration or any other fee associated herewith shall be returned or refunded upon the revocation of a license and all such monies shall be deemed forfeited.

(H) Applicant, or any of applicant's employees or agents, was, within 15 years prior to the date of Application for Certificate of Registration, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude.

(I) Applicant, or any of applicant's employees or agents, has violated any section of this chapter or has been charged with or convicted of a felony or misdemeanor crime of dishonest, fraud, theft and/or moral turpitude after the issuance of the Certificate of Registration, but prior to the expiration date of such a registration.

SECTION V

Title XI, Chapter 110, § 110.99 shall be deleted in its entirety and inserted in lieu thereof shall be the following:

§ 110.99 PENALTY.

(A) Any vendor and/or any employee or agent of a vendor who engages in door-to-door solicitations in violation of this chapter shall, prior to any revocation of their Certificate of Registration, be subject to a fine of \$100 for each separate offense during which said person or persons engage in such conduct with a maximum penalty of up to \$1,000 per day. Should such violations occur on a second succeeding day during the same calendar year, the second day such a violation or violations occur, shall incur a fine of \$250 per violation with a maximum penalty of up to \$2,500 per day. Should such violations occur for a third or successive day during any calendar year, said violation shall incur a fine of \$300 per day with the maximum penalty of up to \$7500 per day.

(B) Any fine associated with a violation of this chapter must be paid before any extension of a permit under an existing Certificate of Registration will be issued or a new Application for a Certificate of Registration will be processed.

(C) The Town may seek a temporary and/or permanent restraining order against any vendor and/or employee or agent thereof in any court of competent jurisdiction.

(D) The remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

(E) Willful or intentional disregard of this Section shall, to the full extent permitted by law, entitle the Town to collect from the violator all attorney fees, court costs, litigation expense and other reasonable costs and expenses incurred in obtaining a restraining order and/or other enforcement remedies against the violator and/or their employer.

SECTION VI

This Ordinance shall be in full force and effect from and after its passage and due publication according to law.

SECTION VII

Introduced and filed on the ____ day of _____, 2023. A motion to consider on first reading on the day of introduction was offered and sustained by a vote of ____ in favor and ____ opposed pursuant to I.C. 36-5-2-9.8.

Duly ordained and passed this ____ day of _____, 2023 by the Town Council of the Town of McCordsville, Hancock County, Indiana, having been passed by a vote of ____ in favor and ____ opposed.

TOWN OF MCCORDSVILLE, INDIANA, BY ITS TOWN COUNCIL

Voting Affirmative:

Voting Opposed:

Gregory J. Brewer

Gregory J. Brewer

Larry J. Longman

Larry J. Longman

Branden D. Williams

Branden D. Williams

Bryan Burney

Bryan Burney

Scott Jones

Scott Jones

ATTEST:

Stephanie Crider, Clerk-Treasurer

This instrument was prepared by Gregg H. Morelock, BRAND & MORELOCK, 6 West South Street, Greenfield, IN 46140.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Gregg H. Morelock.