

sORDINANCE NO. 2007-04

AN ORDINANCE RESTRICTING PEDDLERS AND SOLICITORS  
WITHIN THE CORPORATE LIMITS OF THE TOWN OF WOLCOTT

ARTICLE 1 – GENERALLY

1.1 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Peddler* means any person selling or offering for sale, barter or exchange at retail, by sample or otherwise, any products, goods, wares or merchandise of any kind or description whatsoever, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from house to house, or in, about, along or upon any street, alley, highway or any other public grounds in the town.

*Solicitor* and *canvasser* mean any person taking or attempting to take orders for the sale of products, goods, wares and merchandise of any kind or description whatsoever, for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payment on such sales or not, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from house to house, or in, along, about or upon any street, alley, highway or other public place in the town.

*Transient merchant* means any person, whether a resident of the town or not, who engages in a temporary business of selling or delivering products, goods, wares and merchandise within the town, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, railroad car, public room in a hotel, lodging house, apartment, shop, street, vacant lot, alley or other place within the town for the exhibition and sale of such products, goods, wares and merchandise.

1.2 RESTRICTIONS ON HOUSE-TO-HOUSE SOLICITATION

It shall be unlawful for any person acting as a house-to-house solicitor and/or canvasser to use other than the front door when making calls at residences. All such canvassing and/or soliciting shall be done between the hours of 9:00 a.m. and 7:00 p.m., with the exception that all soliciting or canvassing on Sundays or holidays shall be prohibited.

1.3 USE OF NOISE FOR PURPOSES OF ATTRACTING ATTENTION

No person, and no licensed peddler or solicitor traveling by foot, wagon, motor vehicle or any other type of conveyance, shall make a noise by hawking or sound, or cause to be sounded any horn, bell, whistle, loudspeaker or other noisemaking device, for the purpose of attracting attention of the public to the presence of such vehicle, or as a medium of advertising the sale of such merchandise.

1.4 REQUIRED MARKINGS ON WAGONS OR OTHER VEHICLES; DISPLAY OF  
LICENSE PLATE

Every wagon or vehicle used by a person required to be licensed under this article shall have displayed upon each side thereof in plain print, legible at 20 feet, the name and address of the owner and kind of goods for sale, and shall also have the license plate furnished by the town conspicuously displayed on the outside of each vehicle.

ARTICLE 2 - LICENSE

2.1 REQUIRED

It shall be unlawful for any person to engage in the business of peddling, soliciting or canvassing, or as a transient merchant, within the limits of the town without first registering and

obtaining a permit as a peddler, solicitor, canvasser or transient merchant as provided in the provision of this division.

## 2.2 APPLICATION

Any person desiring to obtain a permit required by this division must register and apply for such permit with the Town Clerk-Treasurer or Clerk-Treasurer's staff, during regular office hours of 8:30 a.m. and 4 p.m., and providing the following information:

- 1) The name, address and description of the applicant and every person participating in the solicitation within the Town of Wolcott;
- 2) A description of the nature of the business;
- 3) The name and address of the employer;
- 4) The anticipated duration of the business;
- 5) If a vehicle is to be used, a description of the vehicle and license plate number;
- 6) A statement as to whether the applicant and every person participating in the solicitation have ever been convicted of a crime or a misdemeanor involving moral turpitude.

## 2.3 FEES

An applicant for a permit required by this division shall pay a permit fee as established by the town as required for the particular form of license issued. The permit fee shall be paid by each individual, sole proprietor, partnership or corporation pursuing a nonpermanent commercial concern, who shall pay to the Office of the Clerk-Treasurer, his or her designate, or the Wolcott Police Department the sum of \$100 for the privilege of pursuing commercial concerns for a period not exceeding 24 hours; the sum of \$150 for the privilege of conducting commercial concerns for a period not exceeding 48 hours; and the sum of \$300 for the privilege of conducting commercial concerns for a period of time up to, but not exceeding 30 days.

The permit shall be issued until the permit fee specified herein is paid in full either in cash or money order. No checks shall be accepted in payment for the permit.

## 2.4 INVESTIGATION OF APPLICANT; ISSUANCE

- A. Before the permit required by this division shall be issued, the applicant must go to the Wolcott Police Department, giving the same information as is required by section 2.2, to the department, which shall record the fingerprints of each applicant together with a photo-ID to be furnished by such applicant(s). No permit shall be issued before the expiration of five (5) days, unless the Wolcott Police Department shall have completed a check of the character, qualifications and record of such applicant(s). If the character, qualifications and record of such applicant(s) are found to be in good order, the police officer shall apply a signature to the application. Said application shall then be brought to the Town Clerk-Treasurer's Office for his or her signature.
- B. Such permit shall in no way be interpreted as a recommendation for any article or thing, tangible or intangible, which such salesperson, peddler or solicitor may have to offer for sale.

## 2.5 TRANSFER

No permit issued under this division shall be in the possession of any person other than the one to whom it is issued.

## 2.6 EXPIRATION

All permits issued under the provisions of this division shall expire on the date specified in the permit.

## 2.7 POSSESSION BY PERMIT

It shall be unlawful for any person to call at any residence or place of business within the Town of Wolcott, with the intent or purpose of soliciting, without having in his possession a permit authorizing such solicitation.

## 2.8 REVOCATION

Permits issued under the provisions of this division may be revoked by the Wolcott Clerk-Treasurer after notice and hearing for any of the following reasons and causes:

- 1) Fraud, misrepresentation or false statement contained in the application for a license;
- 2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler, solicitor or salesperson;
- 3) Any violation of this article;
- 4) Conviction of any crime or misdemeanor involving moral turpitude; and
- 5) Conducting the business of peddling or soliciting in an unlawful manner so as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

## 3.1 EXCEPTIONS

COMMERCIAL CONCERN shall be defined as any commercial transaction resulting in goods, wares or merchandise being sold by the commercial concern to the public for monetary payment therefore, excepting therefrom a service or any endeavor generally recognized as a garage sale, a porch sale, a yard sale or flea market, defined as the sale of conglomerate collectibles, new or used, with no single item being sold for an amount greater than \$100 and/or a total value of goods to be sold at any flea market in a sum greater than \$1,000.

Also excepted from this chapter shall be any items sold at any public auction, estates of decedents or other local nonprofit and charitable endeavors. Also excepted herefrom shall be the sale of any item or food article sold at public gatherings or recognized holidays and activities which occur within the corporate boundaries of the Town of Wolcott. Also excluded are handmade and handcrafted items being offered for sale by the maker thereof. It is the intention of this chapter that it apply to peddlers and other commercial concerns selling at retail and not to sellers selling wholesale.

## ARTICLE III. ABATEMENT

ABATEMENT. No person shall engage in the business of peddling, soliciting or canvassing, or as a transient merchant, within the limits of the town without first registering and obtaining a permit as a peddler, solicitor, canvasser or transient merchant as provided in this ordinance.

### OTHER ORDINANCES OR STATUTES:

- A) All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. Provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinance are hereby ratified, re-established, and confirmed.

3.1 CONSTRUCTION OF CLAUSE HEADINGS. The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.

3.2 SEVERABILITY OF PROVISIONS. If any part of this ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this ordinance.

3.3 DURATION AND EFFECTIVE DATE. This ordinance shall be in full force and effect beginning July 1, 2007 from and after its passage by the Council of the Town of Wolcott, and publication according to the laws of the State of Indiana.

Introduced and Filed on the 15th day of May, 2007. A motion to consider same on the First Reading or day of introduction was sustained by a vote of 3 in Favor and 0 Opposed, pursuant to Indiana Code 36-4-6-13).

DULY PASSED AND ADOPTED this 15th day of May, 2007 by the Council of the Town of Wolcott, White County, Indiana, having been passed by a vote 3 in Favor and 0 Opposed.

AYE

NAY

Not in Attendance  
Robin D. Hensler, Council President

Robin D. Hensler, Council President

/s/  
Marsha L. Mackey, Member

Marsha L. Mackey, Member

/s/  
Danny L. Sheets, Member

Danny L. Sheets, Member

/s/  
Jon H. Evans, Member

Jon H. Evans

/s/  
Richard A. Lynn, Member

Richard A. Lynn, Member

ATTEST:

/s/  
Linda S. Bajzatt, IAMC, CMC  
Clerk-Treasurer