

KNOX COMMON COUNCIL

ORDINANCE NO. 2020-OR#8

AN ORDINANCE TO AMEND SEC. 8-26 THROUGH SEC. 8-41 IN ARTICLE II OF THE KNOX MUNICIPAL CODE COMMONLY KNOWN AS THE REGULATIONS FOR PEDDLERS

WHEREAS, pursuant to I.C 36-8-2-11, “*a unit may regulate solicitation by persons offering goods or services to the public or solicitation for charitable causes;*” and

WHEREAS, on or about August 26, 1968 and October 13, 1992, the Common Council established regulations for solicitors offering goods or services to the public through Ordinance No. 233 and Ordinance No. 896, which have been codified into the Knox Municipal Code in Sec. 8-26 through Sec. 8-41; and

WHEREAS, the City has determined that the need exists to amend Sec. 8-26 through Sec. 8-41 to further establish more detailed rules and regulations for canvassers, peddlers and solicitors, street vendors, transient merchants, and mobile food vendors.

NOW, THEREFORE, BE IT ORDAINED that Sec. 8-26 through Sec. 8-41 in Article II, in Chapter 8 of the Knox Municipal Code shall be repealed and replaced as follows:

ARTICLE II. CANVASSERS, PEDDLERS AND SOLICITORS; STREET VENDORS; TRANSIENT MERCHANTS; AND MOBILE FOOD VENDORS.

DIVISION 1. PERMIT GENERALLY

Sec. 8-26. 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:

Canvasser. Every person who seeks opinions, preferences, or other information for commercial purposes.

Exempt organization(s) mean any of the following: An Indiana not-for-profit fraternal organizations; an Indiana not-for-profit organizations tax exempt under the Internal Revenue Code Section 501(c)(3); Indiana not-for profit veteran’s organization; persons, age 17 and under, selling merchandise, services, or seeking donations on behalf of a school, church, sport, Boys & Girls Club, or scouting organization.

Mobile food vendor. Every person who operates a self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle, used to store, prepare, cook, display or serve food intended for individual portion service on or in public, private, or restricted

spaces. Mobile food vendors planning to operate in Knox must first receive a food-handler permit from the Starke County Health Department.

Peddler. Every person who sells or offers for sale goods, wares, or merchandise directly by going from house-to-house, door-to-door, business-to-business, or any other place-to-place movement.

Person. An individual, corporation, or business, including any agent or employee thereof.

Required identification. Suitable forms of photo identification to apply for a permit include the following, which must be valid and unexpired: 1.) driver's license or permit; 2.) state-issued identification; 3.) learner's permit, 4.) active U.S. Military Identification Card; 5.) passport; 6.) U.S. Certificate of Naturalization; 7.) U.S. Permanent Resident Card; and 8.) U.S. Employment Authorization Card.

Solicitor. Every person not carrying goods, wares, or merchandise, but taking orders for future delivery of goods, wares, merchandise or services, or soliciting for money, or other things of monetary value by going house-to-house, door-to-door, business-to-business, or any other place-to-place movement.

Street vendor. A person who sells, offers for sale, exposes for sale, solicits offers to purchase, or barter food, goods, or services in a street, alley, sidewalk, or other public place or right-of-way from a stand, pushcart, or by person. Street vendor shall not include persons selling or offering to sell or barter food, goods, or services from public property.

Transient merchant. Every person who engages in the sale of goods, wares, merchandise, or services in any place in the city on a temporary basis and does not anticipate becoming an established business merchant for a continuous period of 90 days or longer. A transient merchant includes any person who rents, erects, purchases, uses, or occupies any vehicle, room, building, structure, or lot, including but not limited to those located in or along parking lots, shopping centers, or other areas for the purpose of purchasing, selling, or offering for sale anything of value at such location without becoming an established business merchant. **This definition excludes mobile food vendors.**

A person so engaged as a transient merchant shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of, any local dealer, trader, merchant, or auctioneer. Anyone conducting business as set forth in this definition within the city for a period of less than 90 days shall be deemed a transient merchant.

Sec. 8-27. Permit required.

No person may engage in the business of a canvasser, peddler, solicitor, street vendor, transient merchant, or mobile food vendor without first having obtained a permit from the office of the City Clerk-Treasurer.

Sec. 8-28. General procedure.

All applications for permits shall be submitted to City Clerk-Treasurer's Office before commencing any activity covered by this Article and shall be verified under oath, notarized, and set forth the following information:

- (a) The name under which the business is to be conducted.
- (b) The applicant's name, address, telephone number, fax number, email, date of birth, and required identification.
- (c) The legal name of the business and/or doing-business-as name; permanent business address, business telephone number, fax number, and email address; and sales tax number.
- (d) The name, address, phone number, fax number, email, date of birth, required identification for each employee or agent who will be transacting business for applicant.
- (e) Whether applicant or any employee or agent who will be transacting business for applicant has ever been convicted of a felony, convicted of a misdemeanor or violation of any ordinance within the past five years, and the date of the conviction, the nature of the offense, and the punishment therefor.
- (f) Location(s) where applicant intends to transact business, including common address, and, if applicable, a detailed site configuration, street access location(s) and/or amount of parking spaces to be utilized.
- (g) Dates and hours during which applicant intends to transact business.
- (h) Detailed description of business applicant intends to transact.
- (i) Detailed description of signage, if any, that will be utilized.
- (j) Copy of required identification for applicant and all employees conducting business for applicant pursuant to permit sought.
- (k) Copy of Charter or Articles of Incorporation and current listing of all directors, partners, and principals.
- (l) If applicable, copy of Food Handler's Permit from Starke County Health Department.
- (m) If applicable, written permission to locate on private property from property owner.
- (n) If applicable, copy of vehicle insurance for vehicle used in transaction of business.
- (o) If applicable, a valid certificate signed by the Sealer of Weights and Measures that all scales and measures to be used by the applicant in his business have been tested and approved at the time of making the application.
- (p) If applicable, a statement of the nature, character, and quality of the item or service to be sold by applicant in City. Copies of all advertising, including, but not limited to, handbills, circulars, and newspaper advertising, shall be attached to application.
- (q) If applicable, applicant's Indiana State Retailer Permit Number.
- (r) Phone number of the manager or supervisor of the applicant's business who will be available during hours solicitation or other business is being transacted.
- (s) Provisions that the applicant agrees to release, hold harmless, and indemnify the City for any claims that may arise out of applicant's conduct or be related to the issuance of a permit by the City.

Sec. 8-29. Review and Issuance of Permit.

- (a) Upon receipt of the application, the City Clerk-Treasurer and the Mayor will determine if the application is complete. An application is complete if all required information is provided, the application is signed by the applicant, and none of the provisions set forth in **Sec. 8-30** would disqualify the application. If the City Clerk-Treasurer and the Mayor determines the application is incomplete, the City Clerk-Treasurer shall inform the applicant of the required, necessary information that is missing.
- (b) Upon submission of a complete application, the City Clerk-Treasurer's Office shall issue the permit badge upon payment of the permit fee by the applicant. If the applicant is an exempt organization, then no fee shall be required to be submitted, however, the exempt organization must still apply for a permit.
- (c) If the City Clerk-Treasurer and the Mayor denies the application, the applicant may appeal said decision to the Board of Works within fifteen (15) days of said denial by filing a written request of the appeal of said decision and the basis for the appeal with the City Clerk-Treasurer. The City Clerk-Treasurer will then place the written request for appeal on the next regularly scheduled meeting for the Board of Works.

Sec. 8-30. Permit ineligibility.

The following may be grounds for denying a permit under this article:

- (a) The failure of an applicant to truthfully provide any information reasonably requested by the City as part of the application process.
- (b) Granting of said application would violate state, federal, or local law, including, but not limited to, the City's zoning code.
- (c) A conviction within the past five years of the date of the application for any violation of any state, federal, or local law, which adversely reflects upon the person's ability to conduct the business for which the permit is being sought in a professional, honest, and legal manner. Such violations shall include, but are not limited to, burglary, theft, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (d) The revocation within the last year of any permit issued to an applicant for the purposes of conducting business pursuant to this Article.
- (e) Evidence of a bad business reputation, which shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Indiana Attorney General, or the Knox Police Department within the preceding 12 months.
- (f) Issuance of a permit would create a public health or safety hazard.
- (g) Any violation of this Article by the Applicant within the last twelve (12) months.

Sec. 8-31. - Sales on street, sidewalk, or other public places.

No person shall sell or offer to sell any goods, wares, merchandise, or services of any nature on any street, alley, sidewalk, or other public place or right-of-way without prior approval of the Board of Works. The Board may limit the hours or days of sale and attach any reasonable conditions or requirements to its approval for the conduct of any sale.

Sec. 8-32. - Condition on issuance of permit.

As a condition of issuing a permit, a manager or supervisor of the applicant's business shall be available by phone at the number listed in the application during the hours that business may be conducted.

Sec. 8-33. - Restrictions on issuance of permit.

- (a) It shall be unlawful for a person granted a permit under this article to engage in business activity in such a manner as to:
 - (1) Impede the flow of pedestrian or vehicular traffic, or obstruct or hinder the view of pedestrians or motorists on any street, alley, sidewalk or right-of-way;
 - (2) Create an unsafe condition or situation; or
 - (3) Generate litter by the permittee or the permittee's customers that is not promptly removed by the permittee.
- (b) The Board of Works may impose other reasonable restrictions on the activity of the applicant by stating the restrictions on the permit, after providing Applicant notice and opportunity to be heard.

Sec. 8-33. - General location requirements.

- (a) No more than one street vendor, transient merchant, or mobile food vendor shall occupy each side of a city block face.
- (b) No street vendor, transient merchant, or mobile food vendor shall offer for sale his goods, wares, merchandise, or service if more than 50 percent of such products are in direct competition with a permanent business, which is in existence at the time the application is submitted to the City, within 300 feet of the location where the same product or service is being offered for sale or display. For purposes of this section, permanent business means a business which is established within any building for a period of time exceeding 30 days.
- (c) There shall be a five-foot setback from the curb of a street where no merchandise, goods, wares, or services shall be displayed or sold or within which no street vendor, transient merchant, or mobile food vendor may stand or sell such merchandise, goods, wares, or services.
- (d) There shall be a triangular area on each corner where two City streets intersect where no wares, merchandise, or services shall be sold or displayed, to create an unobstructed corner. An unobstructed corner means a triangular area formed by the street right-of-way lines and a line connecting them at points 25 feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines when extended.
- (e) If applicable, a street vendor, transient merchant, and a mobile food vendor must provide receptacles for waste disposal and is responsible for the removal of the waste from said location, and shall not obstruct storefronts or entrances thereto.
- (f) If a permittee has been granted permission to utilize public property, the City reserves the right to move a permittee to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.

Sec. 8-34. - Display of Permit.

If a permit is issued by the City Clerk-Treasurer, the permit shall be displayed on the person of the canvasser, peddler, solicitor, street vendor, and mobile vendor at all times said person is transacting business in accordance with said permit. The permit shall be made available to view upon request. In addition to the permit, the applicant and each employee or agent of the applicant shall carry on his person required identification at all times while transacting business pursuant to the permit.

Sec. 8-35. - Permit; transfer of permit prohibited.

- (a) No permit shall be good for more than one person, corporation, or business.
- (b) A permit issued under this article is non-transferable.

Sec. 8-36. - Misrepresentations.

It shall be unlawful for any canvasser, peddler, solicitor, transient merchant, street vendor, or mobile food vendor to misrepresent the goods, wares, merchandise, or services which he is selling.

Sec. 8-37. Refusal to issue permit; suspension and revocation of permit.

- (a) A permit issued pursuant to this article may be revoked by the Board of Works, after notice and hearing, for the following:
 - (1) Fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, merchandise, or services, or information to be conveyed or the application therefor;
 - (2) Any violation of this article;
 - (3) Conviction of the permittee of any felony or misdemeanor involving moral turpitude; or
 - (4) Conducting the business permittee under this division in an unlawful manner or in such manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.
- (b) Notice of a hearing for suspension and revocation of a permit 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 with postage paid to the permittee at his address provided within his application at least five days prior to the date set for such hearing. If the mayor determines that an imminent risk of harm to the health or safety of the public may occur because of the actions of an individual permittee under this Article, the mayor may immediately suspend the person's permit and provide notice of the right to a hearing as provided above.
- (c) Any person who has had a permit suspended or revoked according to this section shall not be permitted to obtain another permit in the City for a period of one year after the suspension or revocation, whether that permit is requested to be issued to the person, a partnership in which the person is a partner, or a corporation in which the person owns more than one percent of the stock. The suspension or revocation of any permit issued under this Article for purposes of authorizing multiple persons to conduct business on behalf of the

permittee shall serve as a revocation of each authorized person's authority to conduct business on behalf of the permittee whose permit is suspended or revoked.

- (d) Any action taken by the Board of Works denying an application for a permit, suspending a permit, or revoking a permit shall be final administrative action for purposes of judicial review.

Sec. 8-38. – Private Property Owner Allowing Person to Conduct Business in Violation of this Article.

It shall be a violation of this Article for any private property owner to permit a person to transact business in violation of this Article.

Sec. 8-39. – Violation/Fine/Legal Remedies.

Any person who violates this Article, may be fined not more than \$2,500.00. Except as otherwise provided by law or ordinance, with respect to continuous violations of this Article, each day that the violation continues is a separate offense. In addition to any fines imposed, any permittee who operates in violation of this Article may have his permit suspended or revoked. Furthermore, violations of this Article that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Sec. 8-40. - Effect of not beginning business, cessation of business, or suspension or revocation of permit.

No deduction or refund shall be allowed from the fee for a permit issued pursuant to this Article for any reason.

Reserved Sec. 8-41—Sec. 8-43.

DIVISION 2. - CANVASSER, PEDDLER AND SOLICITOR

Sec. 8-44.1 - Permit fee.

The permit fee for a canvasser, peddler, or solicitor is as follows: \$10.00 (day); \$25.00 (week); \$50.00 (month); \$250.00 (year). Exempt organizations are required to apply for and receive a permit, however, are not required to pay the permit fee.

Sec. 8-44.2. - Exceptions.

Under this article, the following are not considered canvassers, peddlers, or solicitors:

- (a) Any person engaged in delivering previously ordered merchandise or materials to and from any store, fixed place of business, or residence;
- (b) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler;

- (c) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- (d) Persons delivering newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (e) Persons engaged in canvassing who promote or solicit support for social, political, religious, or other lawful causes; and
- (f) Persons, age 17 and under, selling merchandise, services, or seeking donations on behalf of a school, church, sports, Boys & Girls Clubs, or scouting organization.

Sec. 8-44.3. - Failure to leave premises.

It shall be unlawful for any canvasser, peddler, or solicitor to refuse to promptly leave the premises of any resident of the City when the resident has requested the same.

Sec. 8-44.4. - Home solicitation; hours permitted.

Home solicitation by any canvasser, peddler, or solicitor shall be conducted between the hours of 9:00 a.m. and 7:00 p.m. or in violation of any hours or days as set forth by Indiana law. A canvasser, peddler, or solicitor shall not disturb a home or business displaying a sign stating no solicitation.

DIVISION 3. - STREET VENDOR

Sec. 8-45.1 - Permit fee.

The permit fee for a street vendor shall be as follows: \$10.00 (day); \$25.00 (week); \$50.00 (month); \$250.00 (year). Exempt organizations are required to apply for and receive a permit, however, are not required to pay the permit fee.

Sec. 8-45.2. - Exceptions.

A permit is not required for a street vendor included by agreement with the City in an event which is sponsored by the City or which has been authorized by the City by lease, agreement, or other entitlements issued by the City.

Sec. 8-45.3. - Proof of insurance coverage.

Prior to the issuance of a street vendor permit as provided for in this article, proof of liability insurance coverage in an amount of not less than \$100,000.00 for destruction of property as a result of any one occurrence, and general liability coverage for bodily injury, including death, to any member of the public in an amount of not less than \$300,000.00 for any one occurrence, must be filed with the City Clerk-Treasurer.

The certificate of insurance filed with the City Clerk-Treasurer must also contain the following provision: "*The City through the Office of the City Clerk-Treasurer will be given 15 days' notice prior to the effective date of the cancellation, expiration, or a material change to this policy.*"

The City, will require the applicant to list the City as an additional insured as a term and condition of granting the permit.

DIVISION 4. - TRANSIENT MERCHANT

Sec. 46.1. - Permit fee.

The permit fee for a transient merchant is \$25.00 (permit only valid 90 days). Exempt organizations are required to apply for and receive a permit, however, are not required to pay the permit fee.

Sec. 46.2 - Claim for exception; bond.

- (a) Every person engaging in the sale of goods, wares, merchandise, and services in the City in any location or place who has not been in business for 90 days shall be presumed to be a transient merchant and his place of business shall be presumed to be a temporary store or place of business. This presumption may be overcome by furnishing proof satisfactory to the City Clerk-Treasurer that the person is not a transient merchant within the meaning of this article.
- (b) A claim for exemption shall be set forth in an affidavit form and filed with the City Clerk-Treasurer. The City Clerk-Treasurer may require the claimant to file a bond in the amount set forth in this section, as security for the principal and surety paying all permit fees under this article if the person carries on business in the City for a period less than 90 days.
- (c) The amount of the bond shall not exceed \$1,500.00. The bond may be either a personal bond or a surety bond, but no personal surety shall be accepted unless it shows the applicant's ownership in fee of the property, the value of which shall be, over and above all encumbrances, twice the amount of the bond. No surety company shall be accepted as surety unless it is duly authorized to execute bonds of this nature within the State of Indiana as shown by the statement of the agent thereof. Nothing in this section shall limit the permit fees or the liability for nonpayment of them under this article.

Sec. 8-46.4. - Display of permit.

- (a) Anyone issued a transient merchant permit must display said permit and the name, address, and telephone number of the contact person for consumer complaints in a conspicuous location near the entry of the facility or premises used for the sale.
- (b) Said documents must remain posted throughout the duration of the transient merchant activity within the city.

DIVISION 5. - MOBILE FOOD VENDOR

Sec. 8-47.1. - Permit fee.

The permit fee for a mobile food vendor is \$25.00 (permit valid only for one 8-hour event). Exempt organizations are required to apply for and receive a permit, however, they are not required to pay the permit fee.

Sec. 8-47-2. - Exceptions.

A permit is not required for a mobile food vendor included by agreement with the City in an event which is sponsored by the City or which has been authorized by the City by lease agreement, or other entitlements issued by the City.

Sec. 8-47.3. - Proof of insurance coverage.

Prior to the issuance of a mobile food vendor permit as provided in this article, proof of liability insurance coverage in an amount of not less than \$100,000.00 for damage to or destruction of property as a result of any one occurrence, and general liability coverage for bodily injury, including death, to any member of the public in an amount of not less than \$300,000.00 for any one occurrence, must be filed with the City Clerk-Treasurer.

The certificate of insurance filed with the City Clerk-Treasurer must also contain the following provision: "*The City through the Office of the City Clerk-Treasurer will be given 15 days' notice prior to the effective date of the cancellation, expiration, or a material change to this policy.*"

The City will require the applicant to list the City as an additional insured as a term and condition of granting the permit if permittee intends to transact business on City-owned property or right-of-way.

Sec. 8-47.4 – Limit on Duration of License at Specific Location

No mobile food vendor shall park, stand, or otherwise operate their business within the City of Knox for more than eight (8) hours every sixty (60) days.

No mobile food vendor shall park, stand, or otherwise operate their business within the City of Knox before April 1st or after October 1st.

Sec. 8-47.5. - Additional rules and regulations.

- (a) No mobile food vendor shall park, stand, or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate.
- (b) The issuance of a permit does not grant or entitle the permittee to the exclusive use of the service route, in whole or in part, other than during the time and at the place approved by the terms of the permit.
- (c) No mobile vendor shall provide or allow any dining area for its customers, including, but not limited to, tables, chairs, booths, bar stools, benches, stand-up counters, unless a proposal for such seating or table arrangements is submitted with the permit application and approved by the Board of Works.
- (d) Mobile food vendors should follow Indiana food safety and sanitation guidelines; related to food preparation, temperature, packaging and sales; to avoid the potential spread of foodborne illnesses.
- (e) A mobile food vendor operating without a valid permit shall be deemed to be a public safety hazard and a public nuisance and may be fined pursuant to this Article and the vehicle by which the activity is being conducted impounded.