

BARGERSVILLE ORDINANCE NO. 2018- 30

**AN ORDINANCE OF THE TOWN OF BARGERSVILLE, INDIANA
REGULATING SOLICITORS, TRANSIENT MERCHANTS AND PEDDLERS**

WHEREAS, the Town of Bargersville, Indiana, (the "Town") desires to regulate the solicitors, transient merchants and peddlers within the Town; and

WHEREAS, Indiana Code 25-37-1-11 permits municipalities to regulate solicitors, transient merchants and peddlers and to charge a fee for a license;

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

Section 1. The purpose of this ordinance is to provide for the regulation of solicitors, transient merchants and peddlers and to impose penalties for violations of this ordinance.

Section 2. For purposes of this ordinance, the following definitions shall apply:

(a) "Peddler" is defined to be any person who goes from house to house, from place to place or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

(b) "Solicitor" is defined to be any person who goes from house to house, from place to place, or from street to street, soliciting or taking orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or other personal property, for immediate or future delivery, or for services to be performed immediately or in the future. Such definition includes any person who, for himself or another, leases, uses or occupies any building, vehicle, trailer, tent, railroad car, hotel room, booth, public marketplace or part thereof, or other place in the Town for the primary purpose of exhibiting sales and taking order for future delivery.

(c) "Transient Merchant" is defined to be any person who engages in a temporary business of selling and/or delivering goods, wares, merchandise or food within the Town, and who in furtherance of such purpose leases, uses or occupies any building, vehicle, trailer, tent, railroad car, hotel room, booth, public marketplace or part thereof, or other

place in the Town, for the exhibition and sale of such goods, wares or merchandise or food.

(d) "License Administrator" is defined to be the Town of Bargersville Director of Development or his or her designee.

(e) "Public Marketplace" is defined to be an area or location within the Town where peddlers, solicitors, transient merchants or others gather for the display, sale and/or delivery of goods, wares, merchandise or food.

(f) "Person" is defined to be any of the following:

- (1) an association;
- (2) a corporation;
- (3) a limited liability company;
- (4) a trust;
- (5) an individual;
- (6) a partnership;
- (7) any other legal entity.

(g) "Person-in-charge" is defined to be the individual present at a Public Marketplace (or who manages a Public Marketplace) who is responsible for the operation at the time of inspection.

Section 3. License. (a) No person shall engage in the business of peddler, solicitor or transient merchant in the Town without first obtaining a license from the License Administrator.

(b) A person who wishes to engage in business as a solicitor, transient merchant or peddler in the Town shall file a verified license application with the License Administrator and pay the necessary license fee. The application shall include the following information:

- (1) Name and address of each person expected to engage in the business;
- (2) A brief description of the nature of the business and the goods, wares, merchandise, or food to be sold;

(3) The name and address of employer or person employed by employer, if any;

(4) The length of time for which the right to do business is desired;

(5) If the employer is an association, corporation, limited liability company, partnership or other legal entity, the state of its incorporation or other formation or organization, whether it is authorized to do business in Indiana and evidence that the legal entity has designated a resident agent in the State of Indiana upon who legal service may be made and that the legal entity will be responsible for the acts of its employees in the Town.

(6) The last municipalities, not exceeding three (3), where applicant carried on business immediately preceding date of application, and the addresses from which such business was conducted in those municipalities.

(c) It shall be unlawful for an applicant for a license to provide false information on the license application form.

(d) A license issued under this ordinance may not be transferred by the licensee to any other person.

Section 4. License Fee. (a) The fee for such license is \$25.00 (per day), or \$100.00 per week, or \$250.00 for six months or \$300 for one year.

Section 5. Exceptions. (a) This Ordinance shall not apply to the following:

(1) To merchants or their employees in delivering goods in the regular course of business;

(2) To vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes; or

(3) To farmers on their own real estate or on real estate they farm pursuant to a lease who vend, sell or dispose of, or offer to sell, vend, or dispose of the products of the farms or gardens occupied and cultivated by them; or

(4) The sale of goods or services to benefit a charitable cause or charitable organization provided that each person who engages in the sale of good or services has in his or her possession a document or other proof that identifies that person as being authorized by the organization to engage in such sales;

(5) The sale of goods or services at an event that is sponsored or run by a 501(c)(3) non-profit organization or other charitable/non-profit organization:

(6) Any sale required by statute or by order of any court; or

(7) Garage sales; or

(8) Any person or business participating in a Town sponsored event or an event allowed by the Town on Town property or other public property.

Section 6. Enforcement and Penalties for Operating without a license. (a) It shall be the duty of each law enforcement officer of the Town to determine that persons engaged as solicitors, transient merchants or peddlers are licensed with the Town and otherwise in compliance with the provisions of this article.

(b) If not in compliance, a law enforcement officer shall issue a complaint and summons.

(c) A law enforcement officer who issues a complaint and summons ticket form to a person for a violation of this article, and who has reason to believe the violation will continue after issuance of the ticket, may take possession of any tangible goods being offered for sale. Such goods may be retained by the Town until the License Administrator issues the person a license under this article or the enforcement action is concluded, whichever occurs first.

(d) A person who violates Section 3 of this Ordinance shall be subject to a fine of not less than two hundred dollars (\$250.00), and each day that an offense continues shall constitute a separate violation.

Section 7. Responsibility of Owner Operating a Public Marketplace. (a) It shall be the duty of both the owner of a Public Marketplace and the person-in-charge of a Public

Marketplace to ensure that persons engaged as solicitors, transient merchants or peddlers that are selling goods, wares, merchandise, or food at the Public have a valid a license from the Town of Bargersville. The lack of a valid license from the Town of Bargersville to a solicitor, transient merchant or peddler is a violation of this Ordinance by both the owner of a Public Marketplace and the person-in-charge of a Public Marketplace.

(b) A person that violates any provision of this article shall be subject to a fine of not less than two hundred dollars (\$250.00) for each unlicensed person that sells goods, wares, merchandise, or food at their event.

Passed and adopted by the Council of the Town of Bargersville this 27th day of November, 2018.

AYES

Bruce Morris
Bruce Morris, President

Rowana Umbarger
Rowana Umbarger, Vice President

Kenneth Zumstein
Kenneth Zumstein

Gayle Allard
Gayle Allard

Jim Beck
Jim Beck

NAYS

Bruce Morris, President

Rowana Umbarger, Vice President

Kenneth Zumstein

Gayle Allard

Jim Beck

ATTEST:

Nancy Kehl
Nancy Kehl, Clerk-Treasurer