

ORDINANCE NO. 2001-011

ORDINANCE REGULATING TRANSIENT MERCHANTS
WITHIN THE TOWN OF SELLERSBURG, INDIANA

WHEREAS, the Town of Sellersburg, Indiana, is authorized through its Town Council to tax, license and regulate transient merchants within the Town, pursuant to I.C. 25-37-1-1, et seq.; and

WHEREAS, the Town Council for the Town of Sellersburg has discussed said regulations at a public meeting; and

WHEREAS, the Town Council for the Town of Sellersburg has determined that the herein Ordinance is necessary for the efficient and effective administration of Town government;

BE IT NOW THEREFORE ORDAINED by the Town Council for the Town of Sellersburg as follows:

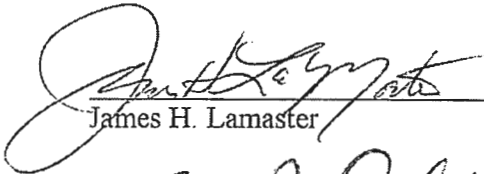
1. The term "transient merchant" shall have the meaning as set forth in I.C. 25-37-1-2.
2. Any transient merchant desiring to transact business within the Town of Sellersburg, Indiana, shall file an application for a license for that purpose with the Office of the Clerk Treasurer or Building Commissioner for the Town of Sellersburg, Indiana. Said application shall meet the requirements of I.C. 25-37-1-4.
3. The applicant desiring to file an application with the Town for a transient merchant license shall pay to the Office of the Building Commissioner or Clerk-Treasurer a license fee in the amount of One Hundred Dollars (\$100.00) for each six (6) month period in which the applicant proposes to transact business in the Town.

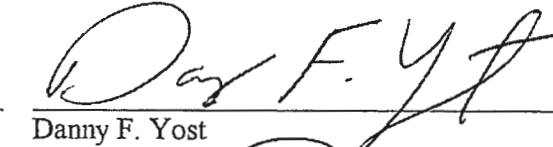
4. A transient merchant who transacts business without first having obtained a license pursuant to the herein ordinance or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise contrary to this ordinance commits an ordinance violation. For each day a violation occurs the transient merchant shall be subject to a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each violation.

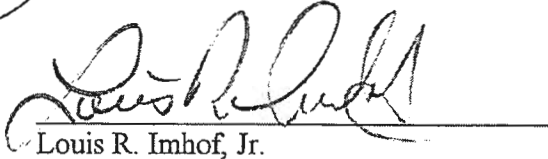
5. This ordinance may be enforced through the issuance of a citation by the Building Commissioner's Office or by reserve or regular police officer. Any such citation shall be filed in a Court of appropriate jurisdiction.

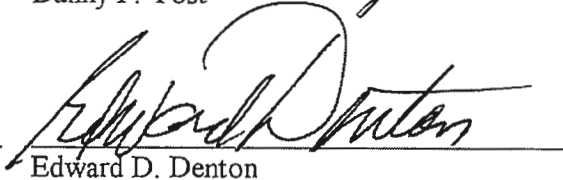
6. That all license fees collected for transient merchant application shall be deposited in the Town's general fund.

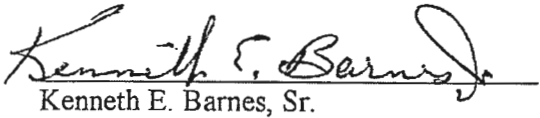
SO ORDAINED this 9th day of APRIL, 2001.

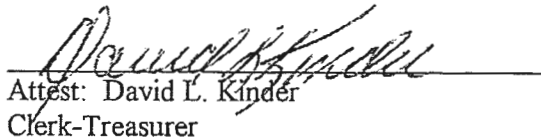

James H. Lamaster


Danny F. Yost


Louis R. Imhof, Jr.


Edward D. Denton


Kenneth E. Barnes, Sr.


Attest: David L. Kinder
Clerk-Treasurer

ORDINANCE NUMBER 2001-015

ORDINANCE AMENDING ORDINANCE 278
REGARDING DOOR TO DOOR SOLICITING AND
ORDINANCE 327 REGARDING STREET VENDORS

WHEREAS, come the Town Council for the Town of Sellersburg has in place ordinances to govern door to door solicitation and street vending in the Town of Sellersburg; and

WHEREAS, the Town Council for the Town of Sellersburg believes that said ordinances are out dated; and

WHEREAS, the Town Council for the Town of Sellersburg determine that amendment to said ordinance is necessary for the efficient and effective administration of Town government; and

WHEREAS, the Town Council for the Town of Sellersburg consider this matter an open meeting at which the public were invited to attend and participate;

BE IT THEREFORE NOW ORDAINED by the Town Council of the Town of Sellersburg as follows:

PEDDLERS AND SOLICITORS

LICENSE REQUIRED.

(A) It shall be unlawful for any person, firm or corporation to engage in the business of hawker or direct seller of any merchandise, article, or thing without having first secured a license therefore.

(B) It shall be unlawful for any person to engage in business as a canvasser or solicitor, calling at a residence without previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions or business of any kind, or seeking information or donations without having secured a license.

APPLICATION FOR LICENSE.

Applications for licenses as direct sellers, solicitors or canvassers shall be made to the Town of Sellersburg Clerk-Treasurer. The applicant shall give his complete identification, his signature, the name of his employer, the nature of the product or services in which he is interested, the names of the manufacturers of the products or of the organization he is representing and the proposed method of operation in the Town. The applicant shall state the description and the number of vehicles, if any, intended to be operated, in direct selling, soliciting or canvassing in the Town. The licensing fee shall

be \$100.00 per direct seller, solicitor or canvasser and those funds collected for license fees shall be maintained in the Town of Sellersburg general fund.

PERIOD OF VALIDITY.

The license shall be valid for a period expiring 180 days after the date of registration and licensing by the Town of Sellersburg Clerk-Treasurer.

LOCATION SPECIFIED WHERE DIRECT SELLING PERMITTED.

No direct sellers shall ply his vacation on any street, sidewalk, park, parkway or in any other public place in the Town unless his direct seller's license specifies that direct selling in such public places is permitted there under.

MISREPRESENTATION OF GOODS OR MERCHANDISE.

Any licensed direct sellers, solicitor or canvasser who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee, while acting as a direct seller, solicitor or canvasser in the Town, or who shall barter or sell any goods, merchandise or wares, other than those specified in his application for license, shall be deemed guilty of a violation of this chapter.

ICE CREAM TRUCKS

DEFINITIONS.

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

ICE CREAM TRUCK. Every motor vehicle in which ice cream, popsicles, ice sherbets or frozen desserts of any kind are carried for purposes of retail sale on the Town streets.

OPERATOR. Every person, firm or corporation who owns, leases, contracts or in any other fashion permits a person to operate on the Town streets any ice cream truck for the purpose of vending as defined herein.

PERSON. Includes every driver of such vehicle as defined herein.

VEND or VENDING. Offering ice cream, popsicles, ice sherbets or frozen desserts for sale from a motor vehicle on the Town streets.

DUTY OF DRIVER OF VEHICLE.

(A) The driver of a vehicle meeting or overtaking from either direction an ice cream truck stopped on the street shall stop no less than 25 feet from the front or rear of

the truck when the flashing lights and stop signal arm are in use. After stopping, a driver may proceed past such truck at a reasonable and prudent speed, not exceeding ten miles per hour, and shall yield the right-of-way to any pedestrian who crosses the roadway to or from the ice cream truck.

(B) The driver of a vehicle on a street with separate roadways separated by a driver of some nature need not stop on meeting or passing an ice cream truck on the parallel roadway.

INSURANCE

(A) No license shall be issued to an ice cream vendor selling from a truck unless a certificate is furnished to the Town showing that the vendor is carrying the following minimum amounts of insurance: public liability insurance in an amount of not less than \$500,000 for injuries, including those resulting in death, resulting from any one occurrence and on account of any one accident, and property damage insurance in an amount of not less than \$25,000 for damages on account of any one accident or occurrence.

(B) Certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation, or termination of the subject policy, written notice shall be sent to the Town Clerk-Treasurer by the insurance company.

CERTAIN EQUIPMENT REQUIRED ON TRUCKS; USE.

(A) In addition to other equipment required by law, every ice cream truck shall be equipped with:

(1) Signal lamps mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be five to seven inches in diameter and shall display two alternately flashing red lights on the front of the vehicle and two alternately flashing red lights on the rear of the vehicle, both lights visible at 500 feet in normal sunlight on a straight level street.

(2) A stop signal arm that can be extended horizontally from the left side of the truck duplicating the design and size of a standard 30-inch octagonal stop sign as set forth in the State Manual of Uniform Control Devices. This arm shall be red and white in color and contain two alternately flashing lights three to five inches in diameter at the top and bottom thereof, visible at 300 feet to the front and rear in normal sunlight on a straight level street. The color of the two lights facing to the front shall be red and the two lights facing to the rear shall be red. The bottom of the signal arm shall be 42 inches above the highway.

(3) A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the truck obscured by the hood.

(B) Use of required equipment.

(1) The driver of an ice cream truck stopped on the streets for the purpose of vending shall actuate the special flashing lights and extend the stop signal arm required by division (A) of this section.

(2) These lights and the stop signal arm shall not be used when the truck is in motion nor at any time the truck is stopped for a purpose other than vending.

INSPECTION OF TRUCKS.

Every ice cream truck shall be inspected by the Town of Sellersburg Police Department once each year prior to its use in the Town for the purpose of retail sales of frozen dairy products. The Police Officer shall inspect each ice cream truck to determine whether it complies with the applicable sections of this code and other state and local laws. The Town of Sellersburg Police Department shall assess a fee in the amount of \$15.00 per vehicle for the inspection. All fees collected as part of this inspection of ice cream truck shall be placed into the Town of Sellersburg Police Department LEC Training Fund.

OPERATIONAL RESTRICTIONS.

(A) A person shall vend only when the ice cream truck is lawfully stopped.

(B) A person shall vend only from the side of the truck away from moving traffic and as near as possible to the curb or side of the street.

(C) A person shall not vend to a person standing in the roadway.

(D) A person shall not stop on the left side of a one-way street to vend.

(E) The operator of any ice cream truck which traverses the streets of the Town for the purpose of vending products shall submit to the traffic officer of the Town prior to March 1 of each year hereafter a detailed listing of the routes to be traveled each day by said motor vehicles. The Town of Sellersburg Police Department shall approve or disapprove such routes within 30 days thereafter. Any routes not approved by the Town of Sellersburg Police Department shall not be utilized by said operator.

(F) Every operator or person falling within the purview of this code shall at all times maintain in said vehicle, while vending products on the streets, a second person who shall act as a guard and lookout to assist the driver, and who shall at all times be available in, about and around the vehicle to assist customers with their safety. The second person shall be one who has received special training in traffic safety, based on a curriculum and educational experience to be devised and carried out by specialized personnel of the Police Department. This division shall be deemed complied with for the

second person on each vehicle on the issuance of a certificate of said specialized training by the Chief of Police.

BACKING TRUCK PROHIBITED.

The driver of an ice cream truck shall not back the truck to make or attempt a sale.

DIRECT SELLERS

DEFINITIONS.

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

CHARITABLE ORGANIZATIONS. Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

CLERK. The Town Clerk-Treasurer.

DIRECT SELLER. Any individual who, for himself, or for a partnership, association or corporation, sells goods, or takes 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 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. Includes 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 the merchant, 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.

REGISTRATION REQUIRED; EXEMPTIONS.

(A) It shall be unlawful for any direct seller to engage in direct sales within the Town without being registered for that purpose as provided herein.

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

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

(2) Any person selling goods at wholesale to dealers in such goods.

- (3) Any person selling agricultural products which the person has grown.
- (4) 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 such goods in his regular course of business.
- (5) 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, that person.
- (6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
- (8) 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.
- (9) Any employee, officer or agent of a charitable organization which has secured a permit as provided for in this chapter.
- (10) Sellersburg Celebrates booths and concessions provided the operators of the booths and concessions have prior approval of the Sellersburg Celebrates Committee.

APPLICATION FOR REGISTRATION.

- (A) Applicants for registration must complete and return to the Town-Treasurer a registration form furnished by the Clerk which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any.
 - (2) Age, height, weight and 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) The temporary address and telephone number from which business will be conducted, if any.

(5) The nature of the business to be conducted and a brief description of the goods offered, and any services offered.

(6) The proposed method of delivery of goods, if applicable.

(7) The make, model and license number of any vehicle to be used by applicant in the conduct of his business.

(8) The last three previous cities and towns, where applicant conducted similar business.

(9) A place where the applicant can be contacted for at least seven days after leaving the Town.

(10) A statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years and if so, the nature of the offense and the place of conviction.

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

(1) A driver's license or some other proof of identity as may be reasonably required.

(2) 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 the state authorities.

(3) 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 shall state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for a license is made.

(4) At the time the registration is returned, a fee of \$25 shall be paid to the Clerk-Treasurer to cover the cost of processing the registration.

(5) Upon payment of the fee, the Clerk-Treasurer shall register the applicant as direct seller and date the entry. The registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided herein.

INVESTIGATION OF APPLICATION.

Upon receipt of each application, the Town 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. The Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received and proven against the applicant by authorities in the three previous cities and towns in which the applicant conducted similar business; or the applicant failed to comply with any applicable provision of hereof. If the applicant has been convicted of any offense, the Clerk-Treasurer consider the acts upon which the conviction resulted as to whether the applicant should be entrusted to serve the public as a direct seller.

APPEAL OF DENIAL.

Any person denied registration may appeal the denial to the Sellersburg Town Council. The Sellersburg Town Council shall hold a public hearing on the denial within ten days after the appeal is filed.

CONDUCT OF REGISTRANTS.

The following regulations shall govern the conduct of registrants hereunder.

(A) 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 visit, his identity or the identity of the organization he 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 for which the organization is soliciting. The portion shall be expressed as a percentage of the sale price of the goods.

(B) 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.

(C) 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 hear outside a 100-foot radius of the source.

(D) 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.

DISCLOSURE REQUIREMENTS.

The following requirements shall govern the conduct of registrants.

(A) 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 seller, the buyer shall have the right to cancel the transaction within three days if it involves the extension of credit or is a cash transaction of more than \$25.00.

(B) If the direct seller takes a sales order for the later delivery of good, 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 full, partial or no advanced 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, the terms thereof.

REPORT ON CONVICTIONS.

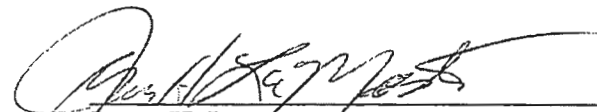
The Chief of Police shall report to the Town Clerk-Treasurer all convictions for violations of this subchapter and the Clerk shall note any such violation on the record of the registrant convicted.

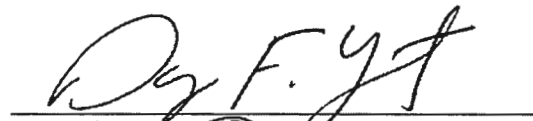
REVOCAION OF REGISTRATION.

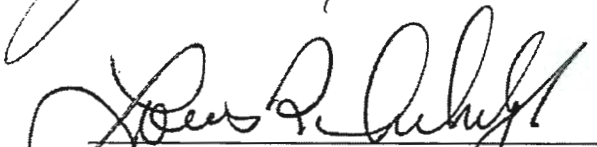
The registration of a direct seller may be revoked by the Town Clerk-Treasurer for any material violation of this subchapter. No registration will be revoked without prior written notice to the registration holder and an opportunity for a hearing within seven days.

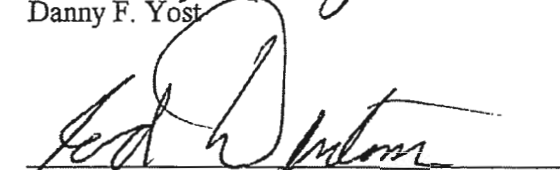
PENALTY.

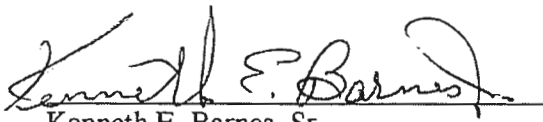
(A) Any person, firm, or corporation violating any provision thereof shall be guilty of a violation, and, on conviction thereof, shall be fined not less than \$25 nor more than \$100 for each offense. A separate offense shall be deemed committed on each day on or during which a violation occurs or continues.

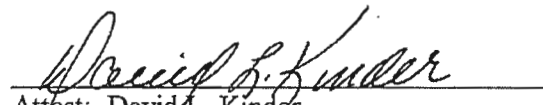

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Attest: David L. Kinder
Clerk-Treasurer