

ORDINANCE NO. 2008-7

**ORDINANCE AMENDING ORDINANCE 1976-21,
AND CHAPTER 112 OF THE CODE OF ORDINANCES OF THE CITY OF
GREENFIELD, INDIANA**

WHEREAS, the Common Council of the City of Greenfield, Indiana, has heretofore passed Ordinance 1976-21, creating Chapter 112 and various sections thereafter, the Code of Ordinances of the City of Greenfield, Indiana; and

WHEREAS, certain extensive amendments of said Code, have been recommended to the Common Council of the City of Greenfield, Indiana; and

WHEREAS, the Common Council of the City of Greenfield, Indiana, believes Amendment of Chapter 112 of the Code of Ordinances is in the best interest of the health, safety and welfare of the citizens of Greenfield, Indiana, as well as the efficient governing of the City of Greenfield, Indiana.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Greenfield, Indiana that:

SECTION I

Chapter 112 - Itinerant Merchants: Solicitors as heretofore adopted by Ordinance 1976-21, is deleted in its entirety and inserted in lieu therefore is the following:

Chapter 112: ITINERANT MERCHANTS: SOLICITORS

Section	
112.01	Registration required
112.02	Issuance of registration certificate
112.03	Conditions of certificate
112.04	Revocation of certificate
112.05	Use of Public Property/Roadway
112.06	Bond
112.07	Outdoor Food Vendor
112.08	Exceptions *

§ 112.01 REGISTRATION REQUIRED:

- (a) No person or entity shall sell or take orders for any goods, wares, merchandise, or services without first applying for and being issued a registration certificate.
- (b) An applicant for a registration certificate shall execute an application form at the office of the Clerk-Treasurer prior to engaging in any soliciting in the city. The form shall require:
 - 1. Applicant's name, home address, and local address, if any.
 - 2. A photograph or a physical description of applicant.

3. The name and address of principal office of the person firm, organization, or corporation for whom the applicant is authorized to conduct such activity solely on his own behalf.
 4. A brief description of the type of goods or services to be sold and a statement whether delivery of such goods or services is to be immediate or in the future.
 5. That the applicant appears at the Police Department and allows him/herself to be fingerprinted.
- (c) At the time of executing such application form, the applicant shall also submit in person for the inspection of the Chief of Police written proof of his/her identity and a specimen of the applicant's signature.
- (d) The application is a continuing application and if, after the issuance of the registration certificate, the information in the application shall become inaccurate for any reason, and the holder of the registration certificate intends to continue his/her activity, notice of such change and the correct information shall be furnished to the office of the Clerk-Treasurer within 24 hours.
- (e) The certificate issue shall be for a period of three months from the date of issuance and shall expire on the date specified in the certificate. Upon expiration of the license, the vendor shall either reapply for a registration certificate with the Clerk-Treasurer or cease his/her/its activity immediately.

§ 112.02 ISSUANCE OF REGISTRATION CERTIFICATE

On compliance of the applicant with the above provisions, the Clerk- Treasurer shall issue a registration certificate by issuance of a photograph identification badge which shall be dated and signed by the Clerk-Treasurer to the applicant who shall personally appear at the Clerk-Treasurer's office, provided that the Clerk-Treasurer has not found applicant's previous registration certificate revoked. Each registration certificate shall be valid for a period not to exceed three (3) months. Each applicant shall pay the Clerk-Treasurer the sum of \$100.00 to defray the costs of administration of this chapter. Each applicant shall pay the Clerk-Treasurer the sum of \$10 for the replacement of a lost or stolen photograph identification badge, during the effective date of any registration certificate.

§ 112.03 CONDITIONS OF CERTIFICATE

All certificates and photograph identification badges are nontransferable and entitle the holder to sell, distribute, solicit, or canvass within the city, subject to the following conditions:

- (a) The holder shall openly display/wear upon his/her person while engaging in door-to-door sales activity the identification badge issued by the Clerk-Treasurer and shall exhibit the same at any time

on request by any police officer of the city or by an individual.

- (b) The holder shall not enter into or on any house, building, or other structure or upon any land or other property, without the prior consent of the owner thereof.
- (c) The holder of a certificate shall be restricted to conducting door-to-door activities between the daytime hours of 9:00 a.m. and 7:00 p.m. during any weekday and Saturday and Noon to 7:00 p.m., on Sunday.
- (d) The holder is prohibited from door-to-door activities at a residence or neighborhood if a sign has been posted by the property owner or landowners association at either the front door of the residence or other conspicuous place that reads, "No Soliciting."
- (e) The holder of a certificate shall make no false statement or misrepresentation of fact in the course of carrying on the activity for which the certificate is granted, and shall conduct him/herself at all times in an orderly and lawful manner.
- (f) The holder of a certificate who takes orders for the future delivery of any type of goods or service shall give written receipt to the purchaser, which shall be signed by the holder and set forth a brief description of goods or services ordered, the name, address, telephone number, facsimile number, and email address of the entity with whom the purchaser may communicate regarding the status of any such order the total purchase price, and the amount of payment, if any received by the holder from the purchaser.

§ 112.04 REVOCATION OF CERTIFICATE

- (a) Any certificate issued may be revoked by the Clerk-Treasurer after notice of hearing for any fraud, misrepresentation, or false statement contained in the application, or for failure to observe the conditions of the certificate as set forth in §112.03. Notice of the hearing for revocation of a certificate shall be in writing, stating the reason for the hearing, and the time and place thereof. Notice shall be given to the holder at least three (3) days, if by personal service, and at least five (5) days if by mail, addressed to the holder's last known local address, or if none, his home address, prior to the date for the hearing.

§ 112.05 USE OF PUBLIC PROPERTY/ROADWAY

Before any registration certificate as herein provided shall be issued for engaging in business as a peddler, solicitor, or transient merchant, as defined in §112.01, upon public property, or roadway, the following conditions must be met:

- (a) The applicant must obtain permission from the Board of Public Works and Safety for the use of said property.

- (b) Furthermore, the applicant shall provide proof of bodily injury and property damage liability insurance in an amount satisfactory to the Board of Public Works and Safety.
- (c) It shall be unlawful for a pedestrian to sit, stand, or move within or upon a roadway, or a median between two roadways, for the purpose of or while engaged in: soliciting, peddling, selling advertising, donating, or distributing any product, property, or service, including but not limited to tickets, handbills, newspapers, or other printed material, to or from an occupant of a vehicle in the roadway; or, conversation or discourse with an occupant of a vehicle in the roadway unless noted in this chapter §112.08 Exceptions.

§ 112.06 BOND

- (a) Before any registration certificate is issued as provided for by this chapter shall be issued, a surety and/or cash bond shall be filed by the applicant with the Clerk-Treasurer, payable to the City in the sum of Five Hundred Dollars (\$500) ensuring that should the applicant and/or his agents and/or employees not comply fully with all the provisions of this code, other ordinances of the City, and the Statutes of the State of Indiana regulating and concerning the sale of goods, wares, and merchandise and the business of a transient merchant, peddler, or solicitor, whichever shall be applicable and will pay all judgments rendered against the applicable, said surety shall pay all judgments rendered against the applicant and/or his agents and/or employees for any violation of the above Ordinances, Statutes or Regulations, together with any and all judgments, court costs, and attorney fees that may be recovered by any person for damage growing out of any misrepresentations, deception, or violation of the aforementioned Statutes, Regulations or Ordinances associated with the sale or the vendor's product, or through advertisement of any character whatsoever printed or circulated in reference to the goods, wares and merchandise sold or any part thereof or service to be rendered by said vendor.
- (b) Separate bonds need not be executed by each employee or agent, but one bond may cover all the employees of one employer or all of the agents of one principal.
- (c) The bond shall be executed by the applicant and/or his employer in addition to the principal of the issuing surety entity and all other required signature or two (2) responsible freeholders residing within the city (or in lieu thereof a cash bond of equal amount) conditioned as referenced above. In the event the applicant elects to post a cash-bond, the same shall be retained by the City for ninety (90) days after the expiration of all registration certificates issued in any calendar year.
- (d) Action on the bond may be brought in the name of the city to the use or benefit of an aggrieved person. Any person aggrieved by the vendor's actions or inactions may petition the Board of Public Works

and Safety for recovery on the bond as appropriate.

§ 112.07 OUTDOOR FOOD VENDOR

- (a) Any person, firm, or corporation desiring to engage in the business of soliciting or constituting an itinerant merchant who desires to sell food products, non-prepackaged food products, ice or other foodstuffs other than items exempt in this chapter must obtain a registration certificate pursuant to this chapter.
- (b) All persons engaged in the conduct of selling or soliciting food items must:
 - 1. Comply with the State and County Board of Health Standards and Regulations.
 - 2. Obtain all required State and County Board of Health certificates that must be displayed in plain view. Additionally, a copy of said certificate must be filed with Clerk-Treasurer's office upon requesting a registration certificate.
 - 3. Maintain a minimum of 100 feet distance from any other licensed vendor and from any other existing dining establishment.
 - 4. Comply with the regulations in this chapter regarding the use of public property, §112.05.
- (c) All persons engaged in the conduct of selling or soliciting food items are prohibited from operating in a city park or on city property unless otherwise approved by the Board of Public Works and Safety.

§ 112.08 EXCEPTIONS

The following are exempt from the provisions of this chapter:

- (a) Persons engaged in the sale of newspapers.
- (b) Persons who sell farm or dairy products or other foodstuffs of their own raising or produced by him/her or by members of his/her immediate family.
- (c) Persons who have established permanent places of business within the city limits and bona fide salesmen selling at wholesale to such resident merchants.
- (d) Sales for nonprofit service or civic organizations that have an office, chapter, or lodge located in Hancock County.
- (e) Members of the Public Safety Departments while engaged in a fund raising activity.

- (f) Persons engaged in sales during the James Whitcomb Riley Festival who have registered with and paid a fee to the Riley Festival Committee.

§ 112.99 PENALTY

- (a) Any person who violates any part of the provisions of this chapter shall, on conviction, be fined not less than \$50.00 no more than \$500.00 for each offense. Each day a violation continues shall constitute a separate offense.
- (b) Any person discovered by a member of the Greenfield Police Department to be selling, taking orders for any goods, wares, merchandise or services, without a proper registration shall be issued a citation of violation, which shall further contain a prohibition against any further solicitation, sale, order taking or any other action contemplated by this Ordinance until such time as they are in compliance with all provisions of this Ordinance.
- (c) If a person having received a registration certificate pursuant to the provisions of this Ordinance is found to be violating the terms and conditions of this Ordinance by a member of the Greenfield Police Department, they shall be immediately issued a citation establishing the date and time that they are to appear before the Clerk-Treasurer of the City of Greenfield, Indiana, to answer as to the alleged violation and their registration certificate shall be immediately confiscated and held until such time as a ruling is made by the Clerk-Treasurer.
- (d) All fines issued pursuant to this Ordinance shall be collected by the Clerk-Treasurer with the assistance of the City Attorney if needed.

SECTION II

This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and publication as prescribed by law.

SECTION III

Introduced and filed on the 27th day of February, 2008. A motion to consider on first reading on the day of introduction was offered and sustained by a vote of 6 in favor and 0 opposed pursuant to I.C. 36-5-2-9.8. On the 12 day of March, 2008, a motion to approve the above on second reading was offered and sustained by a vote of 7 in favor and 0 opposed pursuant to I.C. 36-5-2-9.8.

Duly ordained and passed this 12 day of March, 2008 by the Common Council of the City of Greenfield, Indiana, having been passed by a vote of 7 in favor and 0 opposed.

**COMMON COUNCIL OF THE
CITY OF GREENFIELD, INDIANA**

Voting Affirmative:

Voting Opposed:

D.J. Davis

D.J. Davis

Kelly J. McClarnon

Kelly J. McClarnon

Jason Horning

Jason Horning

Mitchell Pendlum

Mitchell Pendlum

Gregory W. Carwein

Gregory W. Carwein

Gary P. Evans

Gary P. Evans

Kerry Grass

Kerry Grass

ATTEST:

Larry J. Breese, Clerk-Treasurer

Presented by me to the Mayor this 12 day of March, 2008.

Larry J. Breese, Clerk-Treasurer

Approved by me this 12 day of March, 2008.

Brad DeReamer, Mayor
City of Greenfield, Indiana