

Town of Williams Creek Commercial Door-to-Door Solicitation Ordinance

I. Definitions

A. "Door-to-door solicitation" includes all methods and means of soliciting funds and/or selling commercial products, services, or property within the corporate limits of the Town of Williams Creek, Indiana (the "Town") through the uninvited in-person solicitation of residents on residential property.

B. "Exempt persons" shall include the following:

1. Individuals under the age of 17
2. Individuals who are permanent residents of the Town of Williams Creek.
3. Individuals while and to the extent that they are engaged in protected political speech or activity
4. Individuals while and to the extent that they are engaged in protected religious speech or activity
5. Individuals who are exempt from local licensing requirements due to the preemption of applicable federal or state law
6. Individuals who hold a license from the Indiana Professional Licensing Academy

C. "Vendor" is defined as a person, partnership, corporation, company, organization, or entity who is not an exempt person, and who is engaged in the selling, peddling, merchandising, or brokering of products, services, or property to the general public for a commercial purpose and/or who is engaged in the solicitation of funds.

II. Licensing and Registration Procedures:

Any vendor who desires to engage in door-to-door solicitation shall first obtain a non-transferrable solicitation license from the Town of Williams Creek Police Department. A solicitation license will permit commercial solicitation activity by vendor and/or vendor's employees and agents. Applications for solicitation licenses must be obtained from the Williams Creek Police Department.

A. Application

The Town of Williams Creek Police Department will provide, upon request, a door-to-door vendor application form to be completed by the vendor and processed by the Town of Williams Creek Police Department. The application shall seek and shall be subject to the verification of relevant information about the vendor's company such as: incorporation date, state of incorporation, applicant's status with the Indiana Better Business Bureau or Better Business Bureau in the appropriate state. Additionally, applicants are required to provide the name, address, and telephone number of the contact person who will respond to consumer complaints.

B. Criminal Reporting Requirements

The application shall also require a vendor to list the name of every employee and agent who will be involved in door-to-door solicitation in the Town pursuant to a license issued to the vendor under this section, and obtain a limited criminal history from the Indianapolis Metropolitan Police Department for each such individual. This report should be attached to the application and completed for each employee or agent involved in the solicitation.

All proposed solicitors listed on the application will need to appear in person at the Town of Williams Creek Police Department to sign disclosure and authorization statements and provide a valid government issued photo identification.

C. Bond Requirement

Following a completed criminal history report, the application, and proposed solicitor information, each applicant must obtain and attach thereto a cash or surety bond in the penal sum of \$1000 from a surety company approved by the Town. The bond will ensure and guarantee that all goods, wares, and merchandise sold by the vendor will be as represented and that a refund in full will be promptly given for any goods, wares, merchandise, and the like sold by the vendor will be as represented by the vendor. Any person aggrieved by the vendor's actions or inactions may petition the Town Council for recovery on the bond as appropriate.

D. Submission and Approval Process

Proof of bond and all relevant documentation should be submitted electronically to the Town Clerk for approval or denial. Vendors will be notified of the status of their application upon approval or denial. Denied applicants will receive correspondence outlining the reason for denial.

If while any application is pending or during the term of any license granted there is any substantial change in fact, policy, or method that would materially alter the information given in the application, the applicant shall notify the police department, in writing, of the change within seventy-two (72) hours of such change. If the applicant or licensee fails to notify the police department, any license issued to the applicant or vendor shall be suspended pursuant to a hearing.

E. Licensing Fee

For approved applications, there is a mandatory licensing fee of \$15.00 for a ten (10)-day license or \$90 for a ninety (90)-day license. Additionally, vendors must pay \$3.00 for each vendor employee/agent to obtain a non-transferrable identification card. Upon payment of the fee, approved individual solicitors must return to the police department with a government issued photo identification to pick up their badges. Individuals

badges will not be released to anyone other than the individual whose name appears on the badge.

F. Identification Cards and Badges

Solicitors must obtain an identification badge in a timely fashion and appropriately display the badge during solicitation. Failure to obtain and wear the identification badge may result in the issuance of a citation or invalidation of solicitation license.

G. Criminal History

Solicitors, vendors and/or designees with felony or misdemeanor convictions for a crime of dishonesty, fraud, theft and/or moral turpitude, within fifteen (15) years of vendor's application date are ineligible for licensing in the Town of Williams Creek

III. License Revocation or Denial

A. If the Town Marshall or his designee, determines that one or more of the following apply to a vendor and/or to any employee or agent of the vendor who applies for a license or who is involved in door-to-door, then the Town Marshall shall deny the application and/or revoke an issued license and/or identification card(s) relating thereto, whichever action is applicable under the circumstances:

1. Vendor submitted an application that contains materially false or misleading information
2. Vendor or any of vendor's employees or agents was, within fifteen years prior to the date of vendor's application, convicted of a felony or misdemeanor or crime of dishonest, fraud, theft or moral turpitude
3. Vendor or any of vendor's employees or agents had violated this section or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft, or moral turpitude after the issuance of but prior to the expiration date of such person's license and/or identification card.
4. Vendor or any of vendor's employees or agents has failed to properly display his/her identification card while engaged in door-to-door solicitation
5. Two or more written and sworn complains have been delivered to the Town of Williams Creek Police Department or Indianapolis Police Department, and verified under oath regarding allegedly untruthful or illegal conduct concerning vendor or vendor's employees or agents during door-to-door solicitation
6. Two or more complaints have been filed and verified with the Indiana Better Business Bureau.

B. All license and/or identification card denials/revocations shall be in writing, shall state thereon the effective date of the denial/revocation and the reason for the same, and shall be served by US certified mail or by personal service on vendor at vendor's address as contained in the application.

C. No application, license, or identification card fees shall be returned or refunded upon the revocation of a license and/or identification card issued pursuant to this section, all such monies being deemed forfeited.

IV. Restrictions on License/Door-to-Door Solicitation

1. Door-to-door solicitation by vendors may be conducted in the Town between the hours of 9am and 5pm local time.

2. Subject to earlier revocation, pursuant to this section, a license, as well as any identification cards issued therewith, shall be valid for exactly ten (10) days or exactly ninety (90) days, as applicable, from the date the license or identification card is issued, and shall thereafter immediately expire and become null and void.

3. Vendor and vendor's employees and agents, shall comply with all applicable federal, state, and local laws, and regulations while engaging in door-to-door solicitation. The issuance of a license and identification card does not empower a vendor or any of vendor's employees and agents to ignore "no solicitation" signs or to fail to immediately abide by other lawful requests to not trespass on private property. Vendors are not authorized to enter private property with a posted "no solicitation" sign.

V. Notice Regulating Soliciting

Every person desiring to secure the protection intending to be provided by the regulations pertaining to soliciting contained in this chapter shall comply with the following directions:

A. Notice of the determination by the occupant giving invitation to solicitors, or the refusal of the invitation to solicitors, to any residence shall be given in the manner by following:

2. A weatherproof card/placard/sticker, approximately three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence or on the resident's mailbox post, indicating the applicable words (or reasonably similar phrasing):

"No solicitors" or "No solicitors invited" or "No solicitors permitted" or "No solicitors allowed."

Residences that elect not to display appropriate notice are presumed to permit registered licensed solicitors to ring or knock on the entrance of the residence.

If appropriate notice is posted, it is unlawful for any person to go upon any premises and ring the doorbell upon or near any door or to create sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof, and engage in soliciting as herein defined in defiance of the notice exhibited at the residence.

VI. Penalties

1. Any person who engages in door-to-door solicitation in violation of this section shall be subject to a fine of \$1000 for each such violation, each day in which said violation occurs constituting a new offense. A vendor and/or employee or agent of a vendor who commits a violation under this chapter is subject to the enforcement procedures provided in Indiana Code.

2. The Town may seek a temporary and/or permanent restraining order against any vendor and/or any employee or agent thereof in any court of competent jurisdiction.

3. The Town's remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

4. Willful or intentional disregard of this section shall, to the full extent permitted by law, entitle the Town to collect from the violator the Town's attorney fees, court costs, litigation expenses, and all other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

VII. Severability

If any paragraph, sentence or other part of this section shall, for any reason, be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this section, but shall be confined in its operation to the paragraph, sentence or other part thereof which is directly involved in the controversy in which such judgment is rendered.