

ORDINANCE NO. 2025-17

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, AMENDING CHAPTER 5.10 OF THE WHITESTOWN TOWN CODE (SOLICITORS)

WHEREAS, the Town of Whitestown, Indiana (“Town”) is a municipality duly organized and existing under the provisions of Ind. Code § 36-5-1; and

WHEREAS, pursuant to Ind. Code § 36-5-2-2, the Town Council (“Town Council”) of the Town is the legislative body of the Town;

WHEREAS, pursuant to Ind. Code § 36-5-2-9, the Town Council may adopt ordinances and resolutions for the performance of the functions of the Town; and

WHEREAS, Indiana Code §36-8-2-11 allows the Town to regulate solicitation by persons offering commercial goods and services to the public or solicitation for charitable causes; and

WHEREAS, the Town has previously regulated the door-to-door solicitation within its corporate limits, such regulation being codified, in part, under Whitestown Town Code §5.10; and

WHEREAS, Whitestown Town Code §5.10 has not been revised in several years; and

WHEREAS, the Town Council of the Town now finds that it is in the interests of public safety and welfare to amend the regulation of solicitation within the Town’s corporate boundaries.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Whitestown, Indiana, as follows:

Section 1. The foregoing recitals are incorporated herein by reference.

Section 2. The current provisions of Whitestown Town Code § 5.10 are hereby repealed and replaced, and shall hereafter read as follows:

“5.10.1 Definitions. The following terms shall have meanings ascribed in this Chapter.

- (1) **Applicant** shall mean any Vendor or Vendor Solicitor who applies for a solicitation license within the Town of Whitestown, Indiana.
- (2) **Corporate Limits** shall include the Corporate boundaries of the Town.
- (3) **House-to-House Solicitations** shall include all methods and means of selling commercial products or soliciting funds, services or property within the Corporate Limits of the Town of Whitestown, Indiana (“Town”), by and through the uninvited in-person solicitation of Town residents on private property.
- (4) **Vendor** shall mean any person, partnership, corporation, company, organization or entity whose employees or agents are or will be engaged in the house-to-house unsolicited selling, peddling, marketing for future sales, merchandising or brokering of products, services, or property to the general public for a commercial purpose and/or who is engaged in the commercial solicitation of funds.
- (5) **Vendor Solicitor** shall refer to any individual licensed as a solicitor and employed by a Vendor.

5.10.2 License Required.

It shall be unlawful for any Vendor or Vendor Solicitor to engage in House-to-House solicitation in the Corporate Limits of the Town, unless such Vendor and each Vendor Solicitor first applied for and has received a license from the Whitestown Police Department pursuant to this Ordinance. Each Vendor Solicitor employed by a Vendor who intends to conduct business within the Corporate Limits of the Town on behalf of Vendor shall be issued their own separate license.

5.10.3 Effect, Scope, and Application.

- (1) **Effect.** This Ordinance shall not apply to non-commercial solicitors or any of the following:
 - a. An individual while and to the extent he or she is engaged in protected political speech or activity;
 - b. An individual while and to the extent he or she is engaged in protected religious speech or activity;
 - c. An individual who, due to the applicable federal or state law, is exempt from local licensing requirements.
 - d. Notwithstanding, any non-commercial solicitors and/or persons engaged in activities described in (a)-(c) shall follow the established time, place, and manner restrictions for which House-to-House Solicitation may be conducted within the Town.
- (2) **Scope.** The adoption of this Ordinance by the Town, and the license of any Vendor or Vendor Solicitor hereunder, shall not constitute an endorsement of approval of the cause, goods, property and/or services represented or provided by, nor the product or any person(s) while engaged in House-to-House Solicitation.
- (3) **Application.** Each Vendor who wishes to conduct business within the Corporate Limits of the Town shall complete an application on the form(s) provided by the Whitestown Police Department and pay the license fee as hereinafter required. The following minimum requirements shall include:
 - A. Any Vendor who wishes to conduct business within the Corporate Limits of the Town shall first obtain from the Whitestown Police Department a non-transferable House-to-House Solicitation license ("License") permitting such activity by Vendor and each of their Vendor Solicitors, employees and agents; and
 - B. If the Vendor intends to sell or offers to sell any type of food or beverage, the Whitestown Police Department shall refer the application to the Boone County Health Department for review and recommendation. The review shall include, at a minimum, an inspection of all refrigeration equipment to be used by the Vendor, Vendor Solicitor, employees and agents and shall ensure that minimum sanitation requirements established by state and local law are met. The Whitestown Police Department shall provide any person, upon request, a House-to-House Vendor Application Form ("Application") to be completed by the Vendor for each Vendor Solicitor engaging in House-to-House Solicitation and submitted to the Whitestown Police Department for review and approval by the Chief of Police, or his/her designee.

5.10.4 Application Fees.

Each Vendor shall pay one of the following:

- A. Ten (10) business day permit- Fifty dollar (\$50.00) processing fee; or
- B. Thirty (30) business day permit- One Hundred dollar (\$100.00) processing fee; or
- C. One Hundred twenty (120) day business permit- One Hundred Fifty-dollar processing fee; and
- D. An additional three-dollar (\$3.00) non-refundable license fee for each Vendor Solicitor application; and
- E. A twenty-dollar (\$20.00) non-refundable criminal history fee for each Vendor Solicitor conducting activities on its behalf upon completing an Application for a license pursuant to this Ordinance.

All funds shall be deposited into the applicable fund for use by the Whitestown Police Department to offset the cost of administering this program and enforcing these requirements. Upon denial of any application, the license fees, but not the processing fee, shall be refunded to the Applicant.

5.10.5 Application Requirements. The application for a license required by this Ordinance shall be acknowledged by or on behalf of the Applicant, made to the Whitestown Police Department, and shall contain such information as it might require, including the following information:

- (1) The telephone number and address of, and name under which, the business is to be conducted or the organization on behalf of which the commercial solicitation is to be conducted;
- (2) The name and address of the Applicant;
- (3) A description of the business to be conducted, goods or property to be sold, or purpose of the commercial solicitation; and
- (4) The duration of the business or commercial solicitation to be conducted.
- (5) General information about the Vendor, Vendor's business and nature of Vendor's proposed House-to-House solicitation. The Applicant shall provide the following information:
 - a. The date of incorporation of Vendor's company; and
 - b. The state of incorporation of Vendor's company; and
 - c. The date on which such corporation was qualified to transact business as a foreign corporation in Indiana if Vendor's company was not incorporated in Indiana.

- (6) The Vendor and each Vendor Solicitor shall provide the following:
 - a. A valid government issued photo ID; and
 - b. A signed release authorizing the Whitestown Police Department to run a national criminal history check report. Each Applicant is required to obtain a criminal background check which shall be completed by the Whitestown Police Department and kept on file during the permit period; and
 - c. If the Vendor Solicitor is a minor, a copy of a work permit issued by the State of Indiana.
- (7) If a Vendor or Vendor Solicitor has a criminal arrest record, the Chief of Police may require the Vendor or Vendor Solicitor to deliver an official copy of any records related to the arrest and/or conviction, and may include other documents in the request including but not limited to a police report, court records or protection order. The Chief of Police, in his or her sole discretion, may deny an application based on a record of arrest or conviction.
- (8) The name, address and telephone number of the contact person who will respond on behalf of the Vendor to consumer complaints and be available for a period of time not less than sixty (60) calendar days following the last date that the Vendor or Vendor Solicitor engages in House-to-House Solicitation in the Town.

The decision as to whether an application is approved or denied shall be made by the Chief of Police, or his designee, within (30) calendar days from the date the application is submitted to the Police Department for processing unless the Chief of Police requests additional information from the Vendor or a Vendor Solicitor. Each Vendor Solicitor shall be required to complete an application to be kept on file by the Whitestown Police Department for the time period that the commercial House-to-House Solicitation shall be conducted. The Chief of the Whitestown Police Department or his/her designee(s) shall make the decision as to whether an application is approved or denied. If, while any application is pending, or during the term of any license granted thereon, there is any substantial change in fact, policy, or method that would materially alter any of the information set forth in the application, the Applicant shall notify the Police Chief, in writing, of the same within seventy-two (72) hours of Applicant's notice of such change. If an Applicant or licensee fails to so notify the Police Department, any license issued to the applicant and/or vendor shall be suspended and/or revoked pursuant to the procedure set forth herein.

5.10.6 License revocation or Application denial.

- (1) The term of a license issued pursuant to this Ordinance shall be for the duration period stated in the license permit described in this Ordinance. No license issued pursuant to this Ordinance shall be transferable.
- (2) If the Chief of Police determines that one or more of the following apply to a Vendor and/or Vendor Solicitor, and/or any employee or agent of the Vendor who applies for a license or who is involved in house-to-house solicitation, then the Chief of Police shall deny the application and/or revoke an issued license and/or identification card(s) relating thereto, as applicable under the circumstances:
 - a. Vendor has submitted an application that contains materially false or misleading information;

- b. Vendor, or Vendor Solicitor, has been, within 10 years prior to the date of Vendor's application submission date, while an application is being processed, or after an application has been approved, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude;
 - c. Vendor or Vendor Solicitor has violated a section of this Ordinance;
 - d. Vendor or Vendor Solicitor has failed to properly display his or her identification card while engaged in House-to-House Solicitation;
 - e. Two or more written and sworn complaints have been delivered to the Whitestown Police Department regarding allegedly untruthful or illegal conduct concerning Vendor or Vendor's employees or agents during the House-to-House Solicitation, including but not limited to violation any "No Solicitation Sign" or the "Town of Whitestown No Solicitation List";
 - f. Vendor or Vendor Solicitor has contacted a resident in violation of this Ordinance.
 - g. The Vendor or Vendor Solicitor has violated this Chapter within the previous two (2) years prior to the application.
- (3) 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 U.S. certified mail or by personal service on Vendor at Vendor's address as contained in the Application.
- (4) Any Vendor or Vendor Solicitor, within 20 days from the date on which notice of such Application, license, and/or identification card denial or revocation notice is served thereon, may by written request made and delivered to the Chief of Police within such time period, appeal such action to the Whitestown Town Council ("Council"). If a timely appeal is not made, the decision of the Chief of Police is final. If a timely appeal is made, the Council shall hear the appeal at a public hearing which shall begin no more than 20 days from the date of the receipt of the appeal request by the Chief of Police. The Council shall issue its written decision on the appeal no more than 10 days from the ending date of the hearing thereon, which Board decision shall be final. The Council may affirm the revocation, modify the revocation, or reinstate the license.
- (5) 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 Ordinance, all such monies being deemed forfeited.

5.10.07 Prohibited Actions. It shall be unlawful for any Vendor or Vendor Solicitor to commit any of the following acts:

- (1) Solicit from any person after that person has stated that he or she is not interested in the solicitation, does not wish to be solicited or does not wish to buy from or contribute to the cause for which the solicitation is being conducted, which shall include any individual property listed on the Town's Do No Solicit List;
- (2) Solicit contributions by misrepresentation of his or her name, occupation, relation to the cause solicited for, or perpetrate any fraud or deception in connection with any solicitation for any cause;

(3) Solicit funds by promising a person solicited that his or her funds will, directly or indirectly, be used to purchase tickets for any event which tickets will be given to another person for charitable purposes, unless the donor gives his or her written approval for said use and the tickets are in fact given to another person for a benevolent cause and the value of the tickets is not reflected in any financial report to increase the gross or net income of the solicitation;

(4) Solicit at any location where a sign has been posted which indicates that the inhabitants do not wish to be solicited; and

(5) Refuse or fail to comply with any requirements established for a Solicitor by this Ordinance.

Section 5.10.8 Vendor Solicitor to Carry and Present Credentials. No person shall engage in a direct and in-person solicitation under a license granted pursuant to this Ordinance unless each Vendor Solicitor, while soliciting or canvassing in the Town, shall have in his or her possession at all times:

(A) A valid license issued pursuant to this Ordinance; and

(B) One of the following:

(1) A valid driver's license, or

(2) A valid non-driver's state issued identification card.

Section 5.10.9 Restrictions on Licensee/House-to-House Solicitation.

The following restrictions shall apply:

(A) House to House Solicitation shall only be conducted between the following hours:

(1) October 1 through April 30- between 10:00 a.m. and 6:00 p.m. EST any day of the week.

(2) May 1 through September 30- between 10:00 a.m. and 8:00 p.m. any day of the week.

(B) Subject to earlier revocation, pursuant to this Section, a license, as well as any identification card(s) issued therewith if applicable, shall be valid for exactly ten (10), thirty (30) or for one hundred and twenty (120) business days, as applicable, from the date the license or identification card was issued, and shall thereafter immediately expire and become null and void.

(C) Vendor and Vendor Solicitor shall comply with all applicable federal, state, and local laws and regulation while engaging in House-to-House Solicitation.

(D) It shall be unlawful to solicit on posted premises. It is unlawful for any Vendor or Vendor Solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of peddling or soliciting at any residence, dwelling or place of business at which a sign bearing the words "No Solicitors" (or words of similar import indicating that solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view; provided, that in this section shall not apply to any peddler or solicitor who

rings the bell, knocks on the door, or otherwise attempts to gain admittance to such residence or dwelling at the invitation or with the consent of the occupant thereof.

- (E) It shall be unlawful to solicit on any premises that is listed on the Town's No Solicitation List. Such List shall be provided to the Vendor and any Vendor Solicitor at the time the license and/or identification cards are issued. The No Solicitation List shall be updated every 180 days, and it shall be the responsibility of the Vendor to obtain a new list from the Whitestown Police Department and to provide such list to any and all Vendor Solicitors employed by or contracted by the Vendor.

Section 5.10.10 Notice To Vendors Prohibiting Solicitation on Premises.

Any individual or business who desires to be on the No Solicitation List shall post a "No Solicitation Card" at the entrance to their business or residence. The cards shall be provided by the Whitestown Police Department to persons requesting, at the proportionate cost thereof. Such cards so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

Section 5.10.11 Veterans.

Veterans described and meeting the qualifications and obtaining the license pursuant to Indiana Code § 25-25-2-1 shall not have to pay a processing or license fee hereunder.

Section 5.10.12 Penalties. The following penalties will apply:

- (A) Citations for violation of this Chapter may be issued by the Whitestown Police Department.
- (B) Any Vendor and/or Vendor Solicitor violating any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not more than \$250.00 for each offense per Vendor Solicitor, per calendar day.
- (C) Any person who engages in House-to-House solicitation in violation of this Ordinance shall be subject to a fine of \$250.00 for each such violation, each calendar day in which said violation occurs constituting a new offense.
- (D) The Town may seek a temporary and/or permanent restraining order against any Vendor and/or Vendor Solicitor, or any employee or agent thereof in any court of competent jurisdiction.
- (E) 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.
- (F) To the full extent permitted by law, violation of this Ordinance shall entitle the Town to collect from the violator, any attorney fees, court costs, litigation expense, and all other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

Section 5.10.13. No Solicitation List.

Any property owner in the Corporate Limits of the Town may register their property on the Town's No Solicitation List. To register for the list, the property owner shall fill out the No Solicitation Form and submit it to the Whitestown Police Department no later than December 1st and June 1st each year. The Whitestown Police Department will prepare and/or update the list twice a year and will provide to Applicants under the provisions of this Ordinance.

Section 3. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed, to the extent of such inconsistency only, as the effective date of this Ordinance, such repeal to have prospective effect only. However, the repeal or amendment by this Ordinance of any other ordinance does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed and enforced under such repealed or amended ordinance as if this Ordinance had not been adopted.

Section 4. If any section, provision, or part of this Ordinance is for any reason declared to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

Section 5. The remaining portions of Whitestown Town Code §5 are not affected by this Ordinance upon its passage.

Section 6. This Ordinance shall be in full force and effect from and after its passage and signing by the Town Council and such publication as required by law.

PASSED by the Town Council of the Town of Whitestown, Indiana, this ____ day of _____, 2025, by a vote of ____ in favor and ____ against.

THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA

Dan Patterson, President

Eric Nicols, Vice President

Cheryl Hancock

Tobe Thomas

Courtenay Smock

ATTEST:

Matt Summer, Clerk-Treasurer

