

FCO 2024-23

AN ORDINANCE GOVERNING COMMERCIAL DOOR-TO-DOOR SOLICITATION
IN FLOYD COUNTY, INDIANA

I. DEFINITIONS.

Whenever used in this subchapter, the following words and phrases shall be defined as herein stated below:

DOOR-TO-DOOR SOLICITATION. Shall include all methods and means of soliciting funds and/or of selling commercial products, services or property within the unincorporated County of Floyd by and through the uninvited in-person solicitation of county residents on private property.

EXEMPT PERSONS. *Shall include the following:*

- (1) An individual while and to the extent he or she is engaged in protected political speech or activity;
- (2) An individual while and to the extent he or she is engaged in protected religious speech or activity;
- (3) An individual engaged in the solicitation of funds and/or the sale of cookies, candies, paper products or similar sundries for and on behalf of a not-for-profit or nonprofit organization or association that is exempt from the Indiana Gross Retail Tax;
- (4) An individual who, due to the preemption of applicable federal or state law, is exempt from local licensing requirements.

VENDOR. 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. APPLICATION, LICENSING, FEES.

(A) Any vendor who desires to engage in door-to-door solicitation shall first obtain from the Floyd County Commissioners a non-transferable door-to-door solicitation license ("license") permitting such activity by vendor and/or by vendor's employees and agents.

(B) If the vendor intends to sell or offers to sell any type of food or beverage, the Floyd County Commissioners shall refer the application to the Floyd County Health Department for review and recommendation. The review shall include an inspection of all refrigeration equipment to be used by the vendor and shall insure that minimum sanitation requirements established by state and local law are met.

(C) The Floyd County Commissioners shall provide to any person, upon request, a door-to-door vendor application form ("application") to be completed by a vendor and submitted to the Floyd County Commissioners for review and approval by the Floyd County Commissioners. The application shall require the following:

(1) General information about the vendor including but not limited to, vendor's business and the nature of vendor's proposed door-to-door solicitation. The applicant shall state relevant information about the vendor's company such as: date of incorporation; state of incorporation and if the corporation is formed outside of the State of Indiana; the date on which such corporation was qualified to transact business as a foreign corporation in Indiana.

(2) Each employee and agent involved in door-to-door solicitation, pursuant to a license issued to the vendor under this section, shall provide a valid government issued photo ID and a signed release authorizing the Floyd County Commissioners or their designee to run a

nationwide criminal history report. Juvenile employees and agents are also required to provide a copy of a work permit issued by the State of Indiana. If any vendor, its employee or agent who is named in the application has a criminal arrest record, the Floyd County Commissioners may require the vendor, employee or agent to deliver an official copy of any records related to the arrest and/or conviction, and may include other documents, such as a police report, court records, or protection order.

(3) The name, address and telephone number of the contact person who will respond to consumer complaints who shall be available for a period of time not less than 60 days following the last date that the vendor(s) sells or offers goods, wares, merchandise, food, services or subscriptions in the county.

(4) An application fee, as determined by the Floyd County Commissioners.

(5) A license fee as determined by the Floyd County Commissioners.

(6) An Identification card fee as determined by the Floyd County Commissioners.

(D) 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 the information given in the application, the applicant shall notify the Floyd County Commissioners in writing, of the change within 72 hours after such change. If the applicant or licensee fails to notify the Floyd County Commissioners, any license issued to the applicant or vendor shall be suspended.

(E) A license and a non-transferable identification card shall be issued to a vendor by the Floyd County Commissioners upon such vendor's completion of an application, confirmation that such vendor and all employees and agents who will be involved in door-to-door solicitation have no felony or misdemeanor conviction(s) within 15 years of the application date for a crime of, fraud, theft, burglary, robbery, and/or any other crime against another person, and such vendor has paid a license fee as set forth in this Ordinance or revised by Resolution.

(F) The vendor shall pay the Floyd County Commissioners license fee of:

10 day license \$50

120 day license \$150

1 year license \$300

for each employee and agent involved with door-to-door solicitation listed on the application.

The fee shall not be returned or refunded upon denial of employee or agent, and all such monies shall be deemed forfeited. The license fee may be changed by a Resolution passed by the Floyd County Commissioners.

(G) The Application processing fee is \$250.00. The Application processing fee may be changed by a Resolution passed by the Floyd County Commissioners.

(H) The identification card fee is \$20 per card. The identification card fee may be changed by a Resolution passed by the Floyd County Commissioners.

(I) The decision as to whether an application is approved or denied shall be made by the Floyd County Commissioners within 20 days from the date the application is submitted to the Floyd County Commissioners for processing.

(J) Vendor, and each of vendor's employees and agents, shall openly display upon his or her person an identification card issued by the Floyd County Commissioners whenever engaging in door-to-door solicitation.

III. RESTRICTIONS ON LICENSE/DOOR-TO-DOOR SOLICITATION.

- (A) Door-to-door solicitation by vendors may be conducted between the following hours: (1) October 1 through April 30 - between 10:00 a.m. and 6:00 p.m. of any day.
- (2) May 1 through September 30 - between 10:00 a.m. and 8:00 p.m. of any day.
- (B) Subject to earlier revocation, pursuant to this section, a license, as well as any identification card (s) issued therewith, shall be valid for exactly ten or 120 days or one year, as applicable, from the date the license or identification card was issued, and shall thereafter immediately expire and become null and void. Vendor or vendor's employee(s) shall return the expired identification card to the Floyd County Commissioners.
- (C) 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.
- (D) Unlawful to solicit on posted premises. It is unlawful for any vendor 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 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 is unlawful to solicit without a permit.

IV. LICENSE REVOCATION OR DENIAL.

(A) If the Floyd County Commissioners, determines that one or more of the following apply to a vendor and/or to any employee or agent of vendor who applies for a license or who is involved in door-to-door solicitation, then the Floyd County Commissioners 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 15 years prior to the date of vendor's application, convicted of a felony or misdemeanor crime of, fraud, theft, burglary, robbery, and/or any other crime against another person;
- (3) Vendor or any of vendor's employees or agents has violated this section or has been charged with or convicted of a felony or misdemeanor crime of, fraud, theft, burglary, robbery, and/or any other crime against another person 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; or

(5) Two or more written and verified complaints have been delivered to the Floyd County Commissioners regarding allegedly untruthful, illegal, or harassing conduct concerning vendor or vendor's employees or agents during his/her door-to-door solicitation. Harassing conduct includes aggressive pressure, intimidation, or not leaving the property upon request.

(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 same, and shall be served by U.S. certified mail or by personal service on vendor. A copy of the report used for denial will be provided to the affected person upon request unless the complainant requests otherwise.

(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. The County will charge an additional application fee, license fee, and identification card fees for any license that has been suspended, revoked, or denied.

V. PENALTY.

(A) Any vendor and/or any employee or agent of vendor who engages in door-to-door solicitation in violation of this chapter shall be subject to a fine of \$100 for each separate offense during which the same engages in such conduct, with a maximum penalty of up to \$1,000 per day. A vendor and/or employee or agent of a vendor who commits a violation under this chapter is subject to the enforcement procedures provided by Indiana law and this ordinance.

(B) The Floyd County Commissioners 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.

(C) The county's remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

(D) Willful or intentional disregard of this section shall, to the full extent permitted by law, entitle the county to collect from the violator the county'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.

VI. VALIDITY, EFFECTIVE DATE, AND CONFLICT CLAUSES

- a) Validity. Should any portion of this ordinance be found to be invalid or unconstitutional, the remaining parts of this ordinance shall be severable and shall continue in full force and effect.
- b) Effective Date. This ordinance shall be in full force and effect upon adoption by the Floyd County Commissioners.
- c) Conflict. That any Ordinance of Floyd County, Indiana which is in conflict with this Ordinance is hereby repealed to the extent of such conflict. Any Ordinance or portion of Ordinance which is not in conflict with this Ordinance shall remain in full force and effect.
- d) FCO-2024-21 is hereby dissolved and replaced upon passage of this ordinance.

Adopted and passed this 3rd day of September, 2024.

BOARD OF COMMISSIONERS,
COUNTY OF FLOYD



Al Knable, President

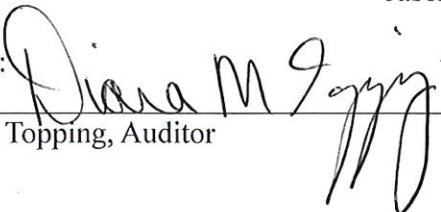


John Schellenberger, Commissioner



Jason Sharp, Commissioner

Attest:



Diana Topping, Auditor