

ORDINANCE 2014-16
AN ORDINANCE RESTRICTING PEDDLING AND
SOLICITATION IN WARRICK COUNTY

WHEREAS, Section 110.02 of the Code of Ordinances of Warrick County, Indiana provides the requirements for the solicitation in or upon a street or intersection in Warrick County, but does not provide any requirement for proof of insurance; and

WHEREAS, there are currently no regulations or licensure requirements in the Code of Ordinances for door-to-door peddling or solicitation of Warrick County residents; and

WHEREAS, the Board of Commissioners of Warrick County believes there to be just and reasonable public purposes in regulating and restricting door-to-door peddling and solicitation in Warrick County to better protect its citizens from unwanted solicitations, which at times lead to criminal activity or property damage; and

WHEREAS, the Board of Commissioners of Warrick County also believe it is in the best interests of Warrick County and its citizens and those that travel upon the streets and highways of Warrick County for solicitations in or upon a street or intersection to provide proof upon application of reasonable and minimum insurance coverage.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF WARRICK COUNTY, INDIANA THAT:

SECTION 110.02 of the Code of Ordinances of Warrick County, Indiana, is hereby amended to provide for a new Section 110.02(F) as follows:

(F) An applicant must provide a certificate of insurance proving comprehensive general liability insurance coverage for the activities applied for in the sum of no less than five hundred thousand dollars (\$500,000.00).

The Code of Ordinances of Warrick County, Indiana, is hereby amended to provide for a new SECTION 110.03 entitled "Peddling and Solicitation" as follows:

Section 110.03 Peddling and Solicitation

(A) DEFINITIONS

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

1. "Peddler" is any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in the business of traveling from place to place, house to house, or in or along the streets within Warrick County, carrying, conveying, or transporting goods, wares, merchandise, or

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personal property of any nature, or for services to be performed offering and exposing them for sale, or making sales and delivering articles to purchasers.

2. "Solicitor" is any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in the business of traveling from place to place, house to house, or in or along the streets within Warrick County, taking or attempting to take orders for the sale of goods, wares, merchants, or personal property of any nature, for future delivery, or for services to be performed, whether or not such individual carries or exposes for sale a sample of the subject of the sale, or whether or not the vendor is collecting advance payment on the sales.
3. "Person" shall mean any human being, partnership, limited liability company, organization, association or corporation.
4. "Administrator" shall mean Administrator of the Warrick County Board of Commissioners.

(B) PEDDLERS AND SOLICITORS: LICENSE REQUIRED

1. It is unlawful for any person to engage in business as a Peddler or Solicitor within Warrick County, without having an unrevoked license issued by Warrick County to do so, valid and in effect at the time.
2. No license shall be transferable or shall authorize any person other than the one named therein to engage in the business of Peddler or Solicitor.
3. Registration and licensing shall not be construed to be a permit to enter neighborhoods, areas, properties or premises that have conspicuously posted non-solicitation notices.
4. The Peddler or Solicitor shall have his/her stamped application in his/her possession at all times while peddling and/or soliciting and shall exhibit it upon request by any law enforcement officer or any purchaser or prospective purchaser.

(C) EXEMPTIONS

This ordinance shall not apply to:

1. Any person selling goods exclusively to retail or wholesale stores for resale.
2. Any person, or an employee or agent thereof, who has, and has had for the preceding twelve (12) months a regular place of business within Warrick County.
3. Any person engaged in peddling or solicitation activities on behalf of a religious group, school, political group, or other not-for-profit entity registered to do business in Indiana.
4. The delivery of mail order, online or catalog sales to residents.

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5. Any farmer, gardener, or fruit or vegetable grower engaged in selling the produce of his own farm, orchard, or vineyard, located in Warrick County, or such a person who sells or takes orders for goods to be sold and delivered to merchants, traders, or dealers who purchase the goods for the purpose of resale.
6. News carriers.

(D) APPLICATION

An applicant for permission to peddle goods or solicit orders hereunder shall complete an application provided by the Administrator. The application shall contain the following information:

1. The name, home address, telephone number, and any local address of the applicant.
2. A physical description of the applicant, and every agent of the applicant that will be peddling or soliciting, setting forth the age, height, weight, and color of hair and eyes. (Example: Driver's License and/or other picture ID)
3. The name and address of the person, firm, or corporation for whom or through whom orders are to be solicited or cleared, including both the main office's address and the address of the office or branch out of which the applicant works.
4. The nature of the goods, wares, merchandise, or services to be sold or for which orders are to be solicited.
5. Written permission from the property owner of the location where peddler will be set up (if applicable).
6. A statement as to the period during which the applicant intends to solicit orders, which shall be no longer than until December 31 of the calendar year during which the application is made.
7. A list of all felony and/or misdemeanor convictions of the applicant and every agent of the applicant that will be peddling or soliciting, including the date of conviction and the city and state of all such convictions, if any. If none, it is to be so stated on the application.
8. The name, address, and telephone number of the contact person who shall be available for a period of time of not less than sixty (60) days following the last date the applicant sells or offers to sell, or distributes goods, wares, merchandise, food, services, or subscriptions in Warrick County, who will be responsible for consumer complaints.
9. The applicant must provide the Administrator with a copy of a valid merchant certificate issued by the Indiana Department of Revenue to applicant.

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10. If a vehicle is to be used, a description of the vehicle, together with the license plate number and proof of valid insurance meeting the minimum requirements set by Indiana law, and a copy of a current and valid driver's license.
11. A statement indicating the applicant has provided with the application a certificate of insurance proving comprehensive general liability coverage for the activities to be performed in the sum of no less than five hundred thousand dollars (\$500,000.00).
12. The applicant, at the time of executing the application, shall also submit identification satisfactory to the Administrator, which shall contain the signature and a photograph of the applicant and any agent of the applicant that will be peddling or soliciting two inches by two inches taken within sixty days prior to the application. The photograph must show the head and shoulders of the applicant and any agent of the applicant that will be peddling or soliciting.
13. If the applicant will be using, handling, selling, or distributing food, a copy of the Warrick County Health Department permit must be attached to the application.
14. Any other such information the Administrator or his designee deems necessary.
15. Verification that all of the information provided is truthful.

(E) FEES

- A. The fee for a license which shall accompany any application shall be as follows:
 1. Thirty dollars (\$30.00) for a period not to exceed one (1) week-end from Friday through Sunday; or
 2. Fifty dollar (\$50.00) for a period not to exceed one (1) week from Monday through Sunday.
 3. One hundred dollars (\$100.00) for a period not to exceed one (1) month; or
 4. One thousand dollars (\$1,000.00) for a period not to exceed one (1) year.
- B. All licenses shall terminate on December 31, one (1) hour before sunset in the year of issue.
- C. All fees collected under this ordinance shall be deposited in the County's General Fund.

(F) APPROVAL

Upon compliance by the applicant with the provisions of this section, the Administrator shall refer the application to the Warrick County Board of Commissioners. The Warrick County Board of Commissioners shall either approve or deny the application for a license at its next regularly scheduled meeting. Upon approval by the Warrick County Board of

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Commissioners, the Administrator shall stamp approval on the application submitted by the applicant and provide the approved license to the applicant.

(G) TIME OF DAY PERMITTED

No person may engage in the business of a Peddler or Solicitor in Warrick County before 9:00 a.m. and must cease all activities one (1) hour prior to sunset each day the license is effective.

(H) REVOCATION OF LICENSE

A license issued pursuant to this ordinance may be revoked by the Administrator after a hearing before the Warrick County Board of Commissioners, for any of the following causes:

1. Any fraud, misrepresentation, or false statements contained in the application for the license.
2. Any fraud, misrepresentation, or false statement made in connection with the peddling or solicitation of sales of goods, wares, or merchandise.
3. Any other violation of this ordinance.
4. Conducting the business licensed under this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
5. The conviction of the license holder of any felony or of any misdemeanor involving a threat to the safety or general welfare of the public.

A license shall be immediately suspended upon reasonable suspicion by the Administrator of any of the above causes while the potential violation is investigated or pending the arrest or filing of charges against the license holder, or any agent thereof, alleging the commission of any felony or a misdemeanor involving a threat to the safety or general welfare of the public. A license holder is not entitled to a refund for the time the license is suspended or revoked.

(I) RIGHT TO APPEAL FOLLOWING DENIAL OR REVOCATION

Any license having been denied or revoked under this ordinance may be appealed to the Warrick County Board of Commissioners. Such appeal shall be taken by filing with the Administrator a written statement of the grounds for appeal within seven (7) days after notice of the denial or revocation. The Warrick County Board of Commissioners, whose decision shall be at its sole and absolute discretion, shall grant or deny the appeal at its next regularly scheduled meeting

(J) PENALTY

- A. Any person violating any of the provisions of this ordinance shall be subject to an ordinance violation fee as follows:

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1. \$250.00 for the first offense;
2. \$500.00 for the second and each subsequent offense.

B. Each day's continued violation shall constitute a separate offense.

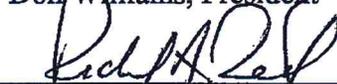
Passed and adopted by the Warrick County Board of Commissioners, upon third reading herein, this 9TH day of JUNE, 2014.

WARRICK COUNTY
BOARD OF COMMISSIONERS

By:



Don Williams, President



Richard A. Reid, Vice-President



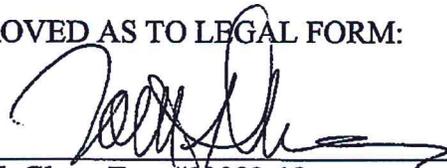
Marlin Weisheit, Member

Attest:



Dixie Dugan, Auditor
Warrick County, Indiana

APPROVED AS TO LEGAL FORM:



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