

Chapter 42

PEDDLERS AND SOLICITORS*

Article I. In General

Secs. 42-1—42-18. Reserved.

Article II. Solicitor or Peddler Licensing

- Sec. 42-19. Definitions.
- Sec. 42-20. Penalties.
- Sec. 42-21. Exception.
- Sec. 42-22. Door-to-door peddling or soliciting.
- Sec. 42-23. License required.
- Sec. 42-24. Application for license.
- Sec. 42-25. Application fees.
- Sec. 42-26. Information required on application.
- Sec. 42-27. Special requirements when dealing with edible product.
- Sec. 42-28. Issuance of license.
- Sec. 42-29. Investigation.
- Sec. 42-30. License from other city.
- Sec. 42-31. Administrative revocation.
- Sec. 42-32. Hearing on appeal; open to public.
- Sec. 42-33. Visible means of identification required.
- Sec. 42-34. Validity of license.
- Sec. 42-35. Licenses not transferable.
- Sec. 42-36. Revocation of license.
- Sec. 42-37. "No visit" list.
- Sec. 42-38. General prohibitions.
- Sec. 42-39. Limitations on license hours and time period.
- Secs. 42-40—42-66. Reserved.

Article III. Soliciting Locations Prohibited

- Sec. 42-67. Certain locations restricted.
- Sec. 42-68. Penalties.

***State law references**—Transient Merchant Law of Indiana, IC 25-37-1-1 et seq.; municipal regulation of businesses, crafts, professions and occupations, IC 36-8-2-10; regulation of solicitations, IC 36-8-2-11.

ARTICLE I. IN GENERAL

Secs. 42-1—42-18. Reserved.

ARTICLE II. SOLICITOR OR PEDDLER LICENSING**Sec. 42-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser means a person who attempts to make personal contact with a person at that person's residence, without prior specific invitation or appointment, for the primary purpose of attempting to solicit support for or against a particular religion, philosophy, ideology, political party, candidate, issue, or ballot question, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause.

Peddler means a person who attempts to make personal contact with a person at that person's residence, without specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor."

Solicitor means a person who attempts to make personal contact with a person at that person's residence, without prior specific invitation or appointment from the resident, for the primary purpose of attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service.
(Code 1959, ch. 11, art. I, § 11-3)

Sec. 42-20. Penalties.

Any person found to be in violation of this article shall immediately cease operation and be assessed a fine in the amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for the first offense, an amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for the second offense, and an amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for each subsequent offense.

(Ord. No. 2006-04, § 4(m), 5-1-2006)

Sec. 42-21. Exception.

This article shall not apply to a federal, state or local government employee or a public utility employee in the performance of his duty for his employer.

Sec. 42-22. Door-to-door peddling or soliciting.

No person shall engage in house-to-house selling, peddling, soliciting, hawking, acting as a transient merchant, or any similar activity within the limits of the Town without first applying at the Clerk-Treasurer's office and obtaining a peddler's or solicitor's license as provided in this article. School children under age 18 shall be allowed to sell goods house-to-house without a license, as long as they are being sold for a school fundraiser, or approved community organization such as Girl Scouts or Boy Scouts.

(Ord. No. 2006-04, § 1, 5-1-2006)

Sec. 42-23. License required.

No person shall call at any residence or place of business with the intent or purpose of peddling or soliciting, as provided in this article, without having in his possession a license authorizing such peddling or solicitation. No license shall be in the possession of any person other than the one to whom it is issued. A canvasser is not required to obtain a license, but any canvasser wanting a license for the purpose of reassuring municipal residents shall be issued one upon meeting license application requirements.

(Ord. No. 2006-04, § 2, 5-1-2006)

Sec. 42-24. Application for license.

Any person or organization (formal or informal) may apply for one or more licenses by completing an application form at the office of the Clerk-Treasurer during regular office hours.

Sec. 42-25. Application fees.

At the time of filing the application, a fee according to a schedule of fees as shall be modified from time to time by the Town Council and made available for public inspection in the Clerk-Treasurer's office, shall be paid to the Clerk-Treasurer for one license, plus an additional fee for each additional license issued to additional persons within the same organization.

(Ord. No. 2006-04, § 4(j), 5-1-2006)

Sec. 42-26. Information required on application.

Applications for a license under this article must be filed with the Clerk-Treasurer in writing, in duplicate, and shall provide the following information:

- (1) Name and description of the applicant;
- (2) Address;
- (3) A brief description of the nature of the business and the goods to be sold;

- (4) If employed, the name and address of the employers, together with the credentials establishing the exact relationship between the two parties;
 - (5) The length of time for which the right to do business is required;
 - (6) The vehicle to be used, if any, a description of such vehicle, along with the license number or other means of identification. For each vehicle used, the applicant shall file a certificate of insurance with the application establishing that liability insurance in minimum amounts of \$100,000.00 and \$300,000.00 bodily injury and \$100,000.00 property damage is in effect, and that each vehicle so used shall have displayed upon each side of the vehicle, in plain, legible print, the name and address of the owner, and the kind of goods for sale. A fee for each vehicle used shall be paid in the amount determined according to a schedule of fees as shall be modified from time to time by the Town Council and made available for public inspection in the Clerk-Treasurer's office;
 - (7) A photograph of the applicant, taken within 60 days prior to the date of the filing of the application, which picture shall be approximately two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - (8) Social security number and a statement as to whether or not the applicant has been convicted of a felony or a crime involving moral turpitude.
- (Ord. No. 2006-04, § 4(a)—(h), 5-1-2006)

Sec. 42-27. Special requirements when dealing with edible product.

Each applicant dealing in an edible product or traveling from house to house shall file with their application a statement by a licensed physician, dated not more than ten days prior to the submission of the application, certifying that the applicant is free of infectious, contagious, or communicable disease.

(Ord. No. 2006-04, § 4(i), 5-1-2006)

Sec. 42-28. Issuance of license.

Licenses shall be issued promptly after application but in all cases within two business days of filing the application, unless it is determined within that time that:

- (1) The applicant has been convicted of a felony, or misdemeanor involving moral turpitude, within the past seven years;
- (2) With respect to a particular card, the individual for whom a card is requested has been convicted of a felony, or a misdemeanor involving moral turpitude, within the past seven years; or
- (3) Any statement within the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

Sec. 42-29. Investigation.

(a) During the time period following the application for one or more licenses and the issuance thereof, the Town may investigate as to the truth and accuracy of the information contained in the application. If the Town has not completed this investigation within the required time period, the license nonetheless will be issued subject to administrative revocation upon completion of the investigation.

(b) If a canvasser requests a license, the investigation shall proceed. If the Town refuses to issue the license, or revokes it after issuance, the canvasser shall be informed that the failure to obtain the license does not prevent him from canvassing the residents of the Town.

Sec. 42-30. License from other city.

As an alternative to the application procedure, if an applicant can provide a valid license from another local government entity with a substantially similar application process, the issuing officer has discretion to immediately issue a license without the necessity of a formal application or investigation.

Sec. 42-31. Administrative revocation.

(a) If the issuing officer denies (or upon completion of an investigation revokes) the license for one or more persons the officer shall immediately convey the decision to the applicant orally and shall within two business days after the denial (or revocation) prepare a written report of the reason for the denial, which shall be made available immediately to the applicant. Upon receipt of the oral notification, even before the preparation of the written report, the applicant at his option may appeal the denial (or revocation) to the Town Council.

(b) For an appeal, the Town Council shall hear the appeal at its next regular meeting, or if the next regular meeting is more than ten days from the denial of the application, the appeal shall be heard at a special meeting within that ten-day period. Due notice shall be provided to the public and the applicant.

Sec. 42-32. Hearing on appeal; open to public.

The hearing shall be subject to the state open meetings law and open records law.

Sec. 42-33. Visible means of identification required.

Any and all persons procuring a license under this article shall conspicuously wear upon his person a badge or means of identification reflecting his identity and the license which has been issued by the Town.

(Ord. No. 2006-04, § 4(k), 5-1-2006)

Sec. 42-34. Validity of license.

A license shall be valid within the meaning of this article for a period of six months from its date of issuance or the term requested, whichever is less.

Sec. 42-35. Licenses not transferable.

All issued licenses shall be nontransferable and nonrefundable.
(Ord. No. 2006-04, § 4(1), 5-1-2006)

Sec. 42-36. Revocation of license.

In addition to administrative revocation of a license, a license may be revoked for the following reasons:

- (1) Any violation of this article by applicant or by the person for whom the particular card was issued;
- (2) Fraud, misrepresentation, or incorrect statement made in the course of carrying on the activity;
- (3) Conviction of a felony, or misdemeanor involving moral turpitude, within the last seven years; or
- (4) Conducting the activity in such a manner as to constitute a breach of the peace, disorderly conduct, or menace to the health, safety or general welfare of the public.

Sec. 42-37. "No visit" list.

(a) The issuing officer shall maintain a list of persons within the municipality who restrict unsolicited visits to their residential property (including their leasehold) by peddlers, solicitors, and canvassers. The issuing officer may provide a form to assist residents, and this form may allow residents to select certain types of visits that the resident finds acceptable, while refusing permission to others. This "no visit" list shall be a public document, available for public inspection and copying.

(b) A copy of the "no visit" list shall be provided to each applicant for and recipient of a license. If a canvasser does not apply for a license, it will be the responsibility of the canvasser to obtain a copy of the "no visit" list.

Sec. 42-38. General prohibitions.

(a) No peddler, solicitor, or canvasser shall:

- (1) Enter upon any private property where on said property is clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting, or canvassing. Such sign may contain words such as "no soliciting" or "no solicitors." The phrase "no soliciting" and "no solicitors" also shall prohibit peddlers and canvassers, unless otherwise stated.
- (2) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entranceway leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor, or canvasser.

- (3) Enter upon any private property where the current occupant has posted the municipality's "no visit" list, except where the posting form indicates the occupant has given permission for that particular type of visit.
- (4) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.
- (5) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.

(b) The above prohibitions do not apply when the peddler, solicitor or canvasser has an express invitation from the resident or occupant of a dwelling to enter upon a posted property.

Sec. 42-39. Limitations on license hours and time period.

Permissible hours for peddling, soliciting and canvassing shall be between the hours of 8:00 a.m. and 9:00 p.m., during the time period stated on the license.
(Ord. No. 2006-04, § 5, 5-1-2006)

Secs. 42-40—42-66. Reserved.

ARTICLE III. SOLICITING LOCATIONS PROHIBITED

Sec. 42-67. Certain locations restricted.

No person, individual, copartner, corporation or organization shall be allowed to peddle or solicit or interfere with the flow of traffic in any way at the intersection of State Highways 10 and 39 South.
(Ord. No. 2006-03, § 1, 4-17-2006)

Sec. 42-68. Penalties.

Any person, individual, copartner, corporation or organization found to be in violation of this section shall immediately cease operation and be assessed a fine in the amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for the first offense, an amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for the second offense, and an amount according to a schedule of fees, as shall be modified from time to time by the Town Council, and made available for public inspection in the Clerk-Treasurer's Office for each subsequent offense.
(Ord. No. 2006-03, § 2, 4-17-2006)

Chapters 43—49

RESERVED

