

TOWN OF LAGRANGE

ORDINANCE NO. 2013-03-18B

**AN ORDINANCE PROVIDING FOR THE  
REGULATION OF DOOR-TO-DOOR SOLICITING**

WHEREAS, the Town Council of the Town of LaGrange, Indiana (hereinafter referred to as “Town”) finds that door-to-door soliciting can subject the citizens of the town to crime and fraud.

WHEREAS, the Town has the authority to adopt regulations governing door-to-door soliciting and finds that it would be in the best interest of the Town to issue an ordinance regulating door-to-door soliciting.

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

**Section 1. Title; Purpose.**

The provisions of this ordinance are intended to balance the First Amendment rights of residential solicitors in the Town of LaGrange with the privacy, safety, health and welfare of the citizens of the Town of LaGrange by:

- A. Requiring all commercial solicitors to conduct any door-to-door residential solicitation within the Town of LaGrange pursuant to a permit and identification badge issued by the Town of LaGrange;
- B. Reasonably limiting the hours of door-to-door solicitation activities; and
- C. Prohibiting door-to-door solicitation at residences where the owner or occupant has prohibited solicitation in a manner consistent with the provisions of this ordinance.

**Section 2. Definitions.** The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this Section:

- A. Applicant shall mean any person or entity who has submitted an application for a permit.
- B. Commercial Solicitor shall mean any person, whether as a volunteer, owner,

agent, consignee or employee, who engages in door-to-door commercial solicitation.

C. Door-To-Door Solicitation shall mean attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or by appointment with the resident, for the primary purpose of:

1. Attempting to sell, for present or future delivery, any goods, wares or merchandise, other than newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he or she is collecting advance payment for such sales; or
2. Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

D. Door-To-Door Noncommercial Solicitation shall mean attempting to make personal contact with a resident at his or her residence, without prior specific invitation or by appointment with the resident, for the primary purpose of:

1. Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);
2. Soliciting the sale of goods, wares, or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);
3. Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
4. Proselytizing on behalf of a religious organization;
5. Soliciting support for a political candidate or organization, or ballot measure or ideology; or
6. Soliciting the sale of newspaper or magazine subscriptions.

E. Employer shall mean any person, company, corporation, business partnership, organization, or any other entity on behalf of whom a person is acting.

F. Noncommercial Solicitor shall mean any person, whether as a volunteer, owner, agent, consignee or employee, who engages in door-to-door non-commercial

solicitation.

- G. No-Solicitation List shall mean a list of the addresses of City residents who have requested that their residences be placed on a list maintained and published by the Town of LaGrange for the purpose of informing the general public and prospective solicitors that all door-to-door solicitation at such addresses are prohibited.
- H. Permit shall mean a document issued by the Clerk of the Town of LaGrange authorizing a commercial solicitor to engage in door-to-door commercial solicitation.
- I. Permit Holder shall mean any person to whom a permit has been issued under the provisions of this ordinance.
- J. Person shall mean a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.
- K. Public Entity shall mean the state, county, city and county, municipality, school district, school improvement district, town and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, city and county, municipality, school district, school improvement district, town, and every other kind of district, agency, instrumentality, or political subdivision thereof.
- L. Residence shall mean a private residence in the Town of LaGrange, including but not limited to condominium units, apartments, and trailers and shall include the yards, grounds or hallways thereof.

**Section 3. All Solicitation Prohibited By Posting of “No Solicitation” or “No Trespassing” Sign.**

- A. Any owner or lawful occupant of any residence within the Town of LaGrange who wishes to prohibit door-to-door commercial solicitation at his or her residence may register the address of such residence with the Town of LaGrange by completing a form prepared by the Clerk’s Office, which form may be submitted to the Town either in person, by mail, or on the Town’s website. Such registration shall take effect thirty (30) calendar days after the date of the Town’s receipt of such registration form.
- B. The Clerk’s Office shall maintain and publish on the Town’s website a no-solicitation list consisting of all residential addresses that have been registered under subsection (A) above and that have not been deleted by the Town of LaGrange under subsection (D) below or by the owner or lawful occupant of the

registered property. Each permit holder shall be responsible for obtaining and reviewing a copy of such list immediately upon issuance of a permit under this ordinance and at such intervals thereafter as may be reasonably necessary to ensure compliance with the requirements of subsection (C) of this section.

- C. As of the effective date of the registration of a residential address under subsection (A) of this section, all door-to-door commercial solicitation at such address shall be prohibited until such time, if at all, that the address has been deleted from the no-solicitation list.
- D. Each residential address appearing on the Town's no-solicitation list will remain on the list for two (2) years from the date it was submitted to the Town, at which time it shall be deleted from the list unless a new form requesting no-solicitation at such residence has been submitted by the owner or lawful occupant thereof. No less than sixty (60) calendar days prior to the deletion of any address from the no-solicitation list, the Clerk shall provide written notice to the property owner or occupant who registered the address with the Town, which notice shall be sent to the registered address or to such other address as may have been provided to the Town at the time of registration.
- E. Prior to the expiration of the two (2) year period referenced in subsection (D) above, the owner or lawful occupant of any residence appearing on the no-solicitation list may cause such residence to be removed from the list by submitting a written request for removal of the same to the Clerk.
- F. Neither the Town nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages, or liability of any kind arising from or relating to any errors or omissions that may occur in compiling or maintaining the no-solicitation list.

**Section 4. Permits and Identification Badge Required for Commercial Solicitors.**

- A. Any person seeking to engage in door-to-door solicitation must obtain a permit from the Clerk and pay the permit fee as provided in this ordinance before commencing any such solicitation.
- B. All permits shall be issued in the name of the applicant. Upon issuance of each permit, the Clerk shall create and maintain a list of all persons authorized to engage in door-to-door commercial solicitation under the permit. It shall be the sole responsibility of the permit holder to:
  - 1. Provide a copy of the permit to each person authorized to engage in solicitation under the permit.
  - 2. Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and with the provisions of

this ordinance.

3. Notify the Clerk in writing of any persons to be added to or deleted from the list of authorized solicitors.
- C. The Clerk shall, within ten (10) business days of the Town's receipt, via mail or in person, of a complete application for a permit under this ordinance, issue such permit, together with identification badges for all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the Clerk determines that the permit is denied under criteria stated in this ordinance.
- D. Subsequent to the issuance of any permit, and upon receipt of this information and fee required by this ordinance, the Clerk shall, within five (5) business days, issue an identification badge to any new or additional person to be authorized to solicit under the permit as long as such person is not prohibited under this ordinance. The Clerk shall also, within five (5) business days, issue a replacement identification badge to any solicitor who, by affidavit, notifies the Clerk that his or her identification badge has been lost or stolen, and who pays an additional identification badge fee as established under this ordinance.
- E. If an employer applies for and is granted a permit under this ordinance, the employer shall be entitled to obtain identification badges from the Clerk for each employee or agent authorized to solicit under the permit. The identification badges shall contain a photograph of the solicitor, bear the words "Permitted Solicitor," include the names of the employer and solicitor, and the expiration date of the permit.

**Section 5. Application Contents; Fees.**

- A. Each person applying for a door-to-door commercial solicitation permit shall file with the Clerk an affidavit on a form supplied by the Clerk stating:
  1. The full name, business address and business telephone number of the applicant.
  2. Information regarding the business as required by the Clerk, including, but without limitation, its legal status and proof of registration with, or a certificate of good standing from, the Indiana Secretary of State.
  3. A complete list of all persons to be authorized to solicit under the permit.
  4. For each person authorized to solicit under the permit, the following information:
    - a. Name, address, telephone number, social security number and date of birth.

- b. A current copy of the person's criminal background check, as maintained by the Indiana State Police, dated no more than sixty (60) days prior to the date of the application.
  - c. A description of the individual, including height, weight, color of eyes and hair color.
  - d. The number and state of issuance of the individual's driver's license, if any, or other state-issued photo identification.
- 5. A brief explanation of the nature of the solicitation activity that requires a permit under this ordinance.
  - 6. If the application is a foreign corporation or an employee of such corporation, the name, address and telephone number of an agent for process residing in the state.
  - 7. Any other information reasonably determined relevant by the Clerk.
- B. At the time of application, the applicant shall also submit a photograph of each person to be authorized to solicit under the permit, taken no more than six (6) months prior to the date of the application, which photographs fairly depicts the appearance of the proposed solicitor as of the date of the application which, in the judgment of the Clerk, is suitable for reproduction on the identification badge to be issued by the Town.
  - C. At the time of application, each applicant shall pay a fee in an amount determined by the Clerk to be sufficient to defray the costs incurred by the Town in processing the application, plus an additional fee to defray the costs of preparing and issuing an identification badge for each person to be authorized to solicit under the permit, including the applicant. Said fees shall be nonrefundable.

**Section 6. Duration of Permit; Renewal.**

- A. Each permit issued under this ordinance shall be valid for two (2) years from the date of issuance.
- B. Any permittee wishing to renew a permit issued under this ordinance must apply for the renewal of the permit no less than thirty (30) days prior to the expiration of its term. Said application shall be accompanied by a criminal background check as required by this ordinance for each person who is to be authorized to solicit under the permit during the renewal term of the permit. If a permittee fails to apply for such renewal within said thirty (30) day period of time, the permit will expire. The renewal fee for each permittee shall be determined by the Clerk in an amount sufficient to defray the costs incurred by the Town in processing the renewal application. Said fee shall be nonrefundable.

**Section 7. Persons Prohibited.**

A person shall not be eligible for issuance of a permit or identification badge under this ordinance if:

- A. Such person has been convicted of a felony under the laws of the State of Indiana or equivalent offense under any federal, state, county or municipal law; or
- B. A permit or an identification badge previously issued to such person by the Clerk has been revoked by the Clerk under this ordinance.

**Section 8. Denial of Permit.**

The Clerk shall deny an application for a permit, or a renewal of a permit under this ordinance if the Clerk determines that the applicant has:

- A. Made any material misrepresentation or false statement in the application for the permit; or
- B. Been convicted of a felony under the laws of the State of Indiana or an equivalent offense under any federal, state, county, or municipal law.

**Section 9. False or Deceptive Representation Prohibited.**

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or anything of value by knowingly making a false or deceptive representation or statement.

**Section 10. Duty to Display Identification Badge and to Exhibit Permit.**

- A. Any commercial solicitor engaging in door-to-door commercial solicitation under a permit issued pursuant to this ordinance shall conspicuously display his or her identification badge.
- B. Whenever requested by a law enforcement officer or by any customer or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation under a permit issued pursuant to this ordinance shall exhibit his or her identification badge and permit.

**Section 11. Permissible Times.**

All door-to-door commercial solicitation shall be undertaken and completed between the hours of 9:00 a.m. and sunset (as announced and published by the National Weather Service).

**Section 12. Transfer of Permits Prohibited.**

No permit issued pursuant to this ordinance shall be transferred to any person.

**Section 13. Revocation of Identification Badge.**

The Clerk may suspend or revoke the identification badge of any solicitor that has engaged in any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

**Section 14. Nonrenewal or Revocation of Permit.**

The Clerk shall revoke, and shall not renew, any permit issued pursuant to this ordinance if the Clerk determines that any of the following have occurred:

- A. Fraud, misrepresentation or false statement in the application for the permit or any renewal application, including, without limitation, representations made as to the criminal history of any person to be authorized to solicit under the permit.
- B. Failure to supervise solicitation conducted under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this ordinance.
- C. Authorizing, condoning or knowingly tolerating any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

**Section 15. Records.**

The Clerk shall maintain records showing each permit issued and the alleged violations of this ordinance.

**Section 16. Appeal.**

An applicant may appeal any decision relating to his or her permit by the Clerk to the Town Manager in accordance with the Town Code. The decision of the Town Manager shall be final.

**Section 17. Administrative Regulations.**

The Clerk is authorized to promulgate rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this ordinance.

**Section 18. Penalties.**

In addition to the revocation, suspension or denial of a permit or identification badge



issued under this ordinance, any applicant, permittee or solicitor who violates any of the provisions of this ordinance shall be guilty of a misdemeanor punishable in accordance with I.C. 35-45-17-2.

**Section 19. Invalidity of Ordinance.** If any provision of this ordinance shall be declared by a court of competent jurisdiction to be invalid, the invalidity shall not affect any other provisions of this ordinance which can be given effect without the invalid provision and, for this purpose, the provisions of this ordinance are declared to be severable.

**Section 20. Effective Date.** This ordinance shall become effective upon promulgation according to law.

Enacted this 18 day of March, 2013.

BOARD OF TRUSTEES OF THE  
TOWN OF LAGRANGE, INDIANA

M. K. W. Englem, President

Bruce Englem

[Signature]

J. C. G.

ATTEST:

Laurie D. Miller  
Clerk-Treasurer