

**ORDINANCE NO. 2023-15
OF THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, INDIANA**

**AN ORDINANCE TO AMEND CHAPTER 3, ARTICLE VI and CHAPTER 11
ARTICLE 1 OF
THE ZIONSVILLE CODE OF ORDINANCES
TO REVISE HOUSE-TO-HOUSE SOLICITATION LICENSURE
REQUIREMENTS AND FEES**

WHEREAS, the Town Council of the Town of Zionsville (“Town Council”) previously adopted Ordinance 88-24 (amended by Ordinance 99-11, Ordinance 99-12 and Ordinance 2009-05) which established a regulatory framework for House-to-House Solicitation licensure, compliance and a corresponding fee schedule for the costs of providing certain services by the Zionsville Police Department; and

WHEREAS, the Town Council previously adopted Ordinance 89-1 (amended by Ordinance 90-15, Ordinance 95-08 and Ordinance 2009-05); and

WHEREAS, the Town of Zionsville (“Town”) has entered into an Interlocal Cooperation Agreement with the Board of Commissioners of Boone County and the Boone County Sheriff to regulate and enforce certain activities and Town Ordinances in the Rural Service District of the Town;

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

WHEREAS, the Town Council has determined that such regulation is necessary to protect the safety and welfare of the residents of the Town; and

WHEREAS, House-to-House Solicitation Fees have not been revised in several years and the current fees do not adequately offset the cost of providing licensure and enforcement of such activities; and

WHEREAS, the Town Council has determined that updating the Zionsville Code of Ordinances to revise both the Police Department and House-to-House Solicitation License fees is a priority of the Town.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Boone County, Indiana, meeting in regular session as follows:

Section 1. Repeal and Replace. The current provisions in Chapter 110: House-to-House Solicitations are repealed and replaced with the following provisions.

Section 2. Title of Chapter. The Title of the Chapter shall be House-to-House Solicitations.

Section 3. Department in Charge. The Zionsville Police Department (“ZPD”) shall have the authority to regulate and enforce House-to-House Solicitations.

Section 4. Definitions. The following terms shall have meanings ascribed in this Chapter.

- (1) Applicant shall mean any solicitor or sponsor on whose behalf one (1) or more individual solicitors pursue house-to-house activities.
- (2) Corporate Limits shall include the Town Service District and the Rural Service District of the Town.
- (3) House-to-House Solicitations shall include all methods and means of soliciting funds and/or of selling commercial products, services or property within the Corporate Limits of the Town of Zionsville, Indiana (“Town”), by and through the uninvited in-person solicitation of Town residents on private property.
- (4) Exempt Persons shall include 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 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 organization or association that is exempt from the Indiana Gross Retail Tax;
 - d. An individual who, due to the applicable federal or state law, is exempt from local licensing requirements. These individuals shall follow the established hours, manner, and restrictions, in which house-to-house soliciting may be conducted within the city.
- (5) Vendor Solicitor shall refer to any individual licensed as a solicitor and employed by a Vendor and shall include both commercial and non-commercial solicitors.
- (6) Vendor shall mean a person, partnership, corporation, company, organization or entity who is not an Exempt Person and who is engaged in the 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 solicitation of funds.

Chapter 5. License Required. It shall be unlawful for any Vendor Solicitor to engage in House-to-House solicitation in the Corporate Limits of the Town of Zionsville, Indiana (“Town”), unless such Vendor Solicitor shall have first secured a license from the ZPD and issued pursuant to Section 11 below. The requirement for a license is for each Vendor Solicitor employed by a Vendor who will conduct business within the Corporate Limits of the Town.

Section 6. 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 ZPD and pay the license fee as hereinafter required. The following minimum requirements shall:

(A) Any Vendor who desires to engage in House-to-House solicitation shall first obtain from the ZPD a non-transferable House-to-house Solicitation license (“license”) permitting such activity by Vendor and Vendor Solicitor, employees and agents; and

(B) If the Vendor intends to sell or offers to sell any type of food or beverage, the ZPD 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; and

(C) The ZPD 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 ZPD for review and approval by the Chief of Police, or his/her designee.

Section 7. Fees. Each Vendor shall pay one of the following:

- (1) Ten (10) business day permit – Fifty dollars (\$50.00) processing fee; or
- (2) Thirty (30) business day permit – One Hundred dollars (\$100.00) processing fee; or
- (3) One hundred twenty (120) business day permit – One Hundred Fifty-dollar (\$150.00) processing fee; and
- (4) An additional three-dollar (\$3.00) non-refundable license fee for each Vendor Solicitor application; and
- (5) An 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 Fund 271 for use by the ZPD 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.

Section 8. Application Requirements. The application for a license required by this Ordinance shall be acknowledged by or on behalf of the applicant, made to the ZPD, 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 ZPD to run a national criminal history check report. Each applicant is required to obtain a criminal background check which shall be completed by the ZPD 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 thirty (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 D for the time period that the commercial solicitation shall be conducted. The Chief of the Zionsville Police Department or his/her designee(s) shall make the decision as to whether an application is approved or denied.

Section 9. 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 Not 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 10. 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 such person shall have in his or her possession:

- (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 11. License Duration, Transferability and Revocation. The term of a license issued pursuant to this Ordinance shall be for the duration period stated in the license permit described in this Chapter. No license issued pursuant to this Ordinance shall be transferable. A license issued pursuant to this Ordinance may be revoked or suspended by the ZPD for any violation of this Ordinance. If the Zionsville Police Department determines that one (1) or more of the following apply to a Vendor, Vendor Solicitor, and/or to any employee or agent of the Vendor who applies for a license or who is involved in house-to-house solicitation, then the Zionsville Police Department 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 or Vendor Solicitor submitted an application that contains materially false or misleading information;
- (2) Vendor or Vendor Solicitor was, within fifteen (15) calendar days prior to the date of the Vendor's or Vendor Solicitor's application, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft or moral turpitude;
- (3) Vendor or Vendor Solicitor has violated this Chapter or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude after the issuance of but prior to the expiration date of such person's license and/or identification card;
- (4) Vendor or Vendor Solicitor has failed to properly display his/her identification card while engaged in house-to-house solicitation; and
- (5) Two (2) or more written and sworn complaints have been delivered to the ZPD Chief of Police or his/her designee(s) regarding allegedly untruthful or illegal conduct concerning Vendor or any Vendor Solicitor during his/her House-to-House solicitation, including, but not limited to, violating any "No Solicitation Sign" or the "Town of Zionsville No Solicitation List."
- (6) The Vendor or Vendor Solicitor has violated this Chapter within the previous two (2) years prior to the application.

The holder of any license revoked or suspended may obtain, by appeal, a hearing before the Zionsville Town Council. Processing and license fees are not refundable in the event of a license revocation. An appeal must be filed by the license holder no later than thirty (30) calendar days following revocation. The Town Council shall schedule a hearing on the appeal at the next Regular meeting of the Town Council. The Town Council may affirm the revocation, modify the revocation, or reinstate the license.

Section 12. 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. All other portions of this Chapter.

Section 13. Restrictions on Licensee/House-to-House Solicitation. The following restrictions shall apply:

(A) House-to-House or place-to-place solicitations 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 of any day.

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

(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 of 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 regulations while engaging in House-to-House Solicitation.

(D) It shall be 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 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 annually no later than January 1st and shall be valid for one (1) year. It shall be the responsibility of the Vendor to obtain a new list annually from the ZPD and to provide such list to any and all Vendor Solicitors employed by or contracted by the Vendor.

Section 14. Exemptions. The license requirements of this Ordinance shall not apply to non-commercial solicitors.

Section 15. Effect and Scope. The adoption of this chapter 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 of any person(s) while engaged in House-to-House Solicitation.

Section 16. Penalties. The following penalties will apply:

(A) Citations for violation of this Chapter may be issued by the ZPD. Each violation of this Chapter shall be punishable by a fine of Two Hundred-Fifty dollars (\$250.00) per Vendor Solicitor per calendar day. If the violation is not paid, an enforcement action may be filed by the ZPD in the Town's Court.

(B) The Town may seek a temporary and/or permanent restraining order against any Vendor and/or Vendor Solicitor in any court of competent jurisdiction.

(C) 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.

Section 17. No Solicitation List. Any property owner in the Corporate Limits of the Town may register the property on the Town's No Solicitation List. To register for the list, the property owner shall fill out the No Solicitation Form and file it with the Mayor's Action Center no later than December 1st annually. The ZPD will prepare and/or update the list once annually and provide to all Solicitors effective January 1st annually.

Section 18. Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit, or extend the scope or intent of the clause to which they appertain.

Section 19. Severability. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of the Ordinance.

Section 20. Duration and Effective Date. The provisions of this Ordinance shall take effect following the date of its passage and action by the Mayor and/or the Town Council in the manner prescribed by Reorganization section ZR2A18 and shall remain in full force and effect until amended or repealed by ordinance of the Town Council.

Ordinance 2023-15

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana as follows:

Introduced and filed on the 21st day of August, 2023. A motion to consider on First Reading was properly made and seconded and approved by a vote of 6 in favor and 0 opposed, pursuant to Indiana Code § 36-5-2-9.4 and § 36-5-2-9.6.




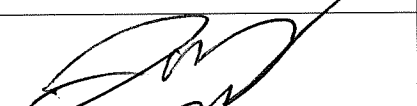

A motion to consider on Second reading was properly made and seconded and approved by a vote of 6 in favor and 0 opposed, pursuant to Indiana Code § 36-5-2-9.4, § 36-5-2-9.6 or § 36-5-2-9.8 (as applicable).

DULY PASSED AND ADOPTED this 5th day of September, 2023, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 6 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

**YEA
Signature**

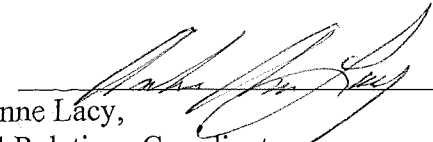
**NAY
Signature**

Jason Plunkett President		
Brad Burk, Vice-President		
Alex Choi, Member		
Joe Culp, Member		
Josh Garrett, Member		
Craig Melton, Member		

I hereby certify that the foregoing Ordinance was delivered to Town of Zionsville Mayor Emily Styron on the 5th day of September 2023 at 9⁰⁰ a.m. p.m.

ATTEST:

Amelia Anne Lacy,
Municipal Relations Coordinator



MAYOR'S APPROVAL


Emily Styron, Mayor

9/6/23
DATE

MAYOR'S VETO

Emily Styron, Mayor

DATE

This Ordinance was prepared by Heather D. Harris, Partner, Barnes & Thornburg LLP serving as Legal Counsel to the Town Council, Town of Zionsville, Boone County, Indiana on July 31, 2023 at 12:26 p.m. EST. This Ordinance was revised in preparation for Second Reading by Heather D. Harris on August 28, 2023 at 9:48 a.m. EST. No subsequent revision to this Ordinance has been reviewed by Ms. Harris for legal sufficiency or otherwise.