

ORDINANCE NO. 440.1 pg. 14

**ORDINANCE SETTING FORTH REGULATIONS FOR DOOR-TO-DOOR
SELLING OR SOLICITATION WITHIN THE COUNTY OF SIMPSON, KENTUCKY**

WHEREAS, the Fiscal Court of the County of Simpson, Kentucky has received numerous complaints about Door-to-Door Salesmen.

WHEREAS, the County of Simpson, Kentucky does not want to encumber the free flow of commerce but realizes that certain protections must be afforded to its citizens.

NOW, THEREFORE BE IT ORDAINED by the County of Simpson, Kentucky that:

Section 1. Registration required.) It shall be unlawful for any direct seller to engage in direct sales within the county, but outside the city limits of Franklin, Kentucky, without being registered for that purpose as provided herein.

(a) "Direct seller" means any individual who, for himself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) "Permanent merchant" means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchant, has continuously operated an established place of business in this city or has continuously resided in this city and now does business from his residence.

(c) "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

(d) "Charitable organization" shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(e) "Clerk" shall mean the Fiscal Court Clerk.

Section 3. Exemptions.) The following shall be exempt from all provisions of this ordinance:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling goods at wholesale to dealers in such goods;

(c) Any person selling agricultural products which such person has grown;

(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the county, but outside the city limits of Franklin, Kentucky, and who

delivers such goods in their regular course of business;

(e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;

(f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with prospective customer;

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

Section 4. Registration.) Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:

Name, permanent address and telephone number, and temporary address, if any;

Provide picture, at least driver's license size, of applicant;

Age, height, weight, color of hair and eyes;

Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or

is employed by, or whose merchandise is being sold;

Temporary address and telephone number from which business will be conducted, if any;

Nature of business to be conducted and a brief description of the goods offered, and any services offered;

Proposed method of delivery of goods, if applicable;

Make, model, color, and license number of any vehicle to be used by applicant in the conduct of his business;

The last three previous cities, villages, towns, where applicant conducted similar business;

Place where applicant can be contacted for at least seven days after leaving the city;

Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years; the nature of the offense and place of conviction.

Section 5. Additional information.) Each applicant shall present to the clerk for examination:

A driver's license or some other proof of identity as may be reasonably required;

A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety days prior to the date the application for license is made;

At the time the registration is returned; a fee of ten dollars shall be paid to the clerk to cover the cost of processing said registration.

Upon payment of said fee, the clerk shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal provided in section 6.

Section 6. Investigation.) Upon receipt of each application, the clerk may refer it immediately to the Sheriff who may make and complete an investigation of the statements made in such registration. He shall be allowed two (2) working days for investigation.

The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of material nature have been received and proven against the applicant by authorities in the

three previous cities, villages and towns, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of section 4.

Section 7. Review.) Any person denied registration may request a hearing before the Simpson Fiscal Court for the purpose of review of said denial, said hearing to be requested by the applicant in writing within ten (10) days after said denial. Said hearing shall be conducted within seven (7) days after request for same.

Section 8. Regulations.) The following regulations shall govern the conduct of registrants hereunder:

It shall be unlawful for any direct seller to call at any dwelling or other place between the hours of 6 p.m. and 9 a.m. except by appointment; to call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; to call at a rear door of any dwelling place, or to remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the

quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as percentage of the sale price of the goods.

It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

It shall be unlawful for any direct seller to make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred foot radius of the source.

It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

Section 9. Disclosure requirements.) All followers must comply with the city's business license ordinance, if applicable.

Section 10. Records.) The Sheriff shall report to the clerk all convictions for violation of this ordinance and the clerk shall note any such violation on the record of the registrant convicted.

Section 11. Revocation of registration.) The registration of a direct seller may be revoked by the Fiscal Court for any violation of this ordinance.

Section 12. Penalty.) Any person, firm or corporation violating any provision of this ordinance shall be fined not less than ten dollars nor more than one hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

This Ordinance shall take effect upon its passage, approval, and publication. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions hereof.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Dec. 23, 1986 FIRST READING
December 30, 1986 SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Kentucky, held December 30, 1986, on motion made by Mag. Bobby Williams and seconded by Mag. Bill Scott, the

foregoing ordinance was adopted, after full discussion, by the following vote:

<u>AYE</u>	BILL SCOTT
<u>AYE</u>	GLEN EVANS
<u>AYE</u>	BOBBY WILLIAMS
<u>AYE</u>	JAMES BAILEY

APPROVED BY:

Kenneth Y. Harper
KENNETH Y. HARPER, County Judge
Executive, County of Simpson,
Kentucky

ATTEST:

Debbie Renick
DEBBIE RENICK, Court Clerk
County of Simpson, Kentucky