

Chapter 16

PEDDLERS AND SOLICITORS

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ARTICLE I. PEDDLERS AND SOLICITORS
DIVISION I. REQUIREMENTS FOR PEDDLERS AND SOLICITORS

Sec. 16-1. Definitions.

As used in this Chapter, the following terms, phrases and words and their derivations shall have the meanings given in this Section, unless otherwise specifically provided in this Chapter:

- (1) *Peddler* means a person who engages in peddling, including persons required to be licensed pursuant to the Transient Merchant Act of 1987. (225 ILCS 5/31-6, et seq.)
- (2) *Peddling* means the sale, offering for sale, barter or exchange of any goods, article, commodity or service of any kind, for immediate delivery, from other than a fixed place of business on private property.
- (3) *Soliciting* or *Solicitation* shall include both commercial soliciting and non-commercial soliciting.
 - (a) *Commercial soliciting* or *solicitation* shall mean and include any one or more of the following activities:
 - (i) Seeking to obtain orders for the purchase and future delivery of any goods, article, commodity or service of any kind, character or description whatsoever, other than orders or subscriptions for publications from other than a fixed place of business on private property; or
 - (ii) Seeking to obtain prospective customers for applications or purchase of insurance of any type, kind or character; or
 - (b) *Non-commercial soliciting* or *solicitation* shall mean and include any one or more of the following activities:
 - (i) Any activity where a person goes to three (3) or more residences within a sixty (60) minute period for the primary purpose of seeking gifts or

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contributions of money, clothing or any other valuable good for the support or benefit of any charitable, political, religious or non-profit association, organization, corporation or project. Any activity undertaken where gifts or contributions are requested by a person who is a “professional fundraiser” or “professional solicitor” as defined in the Solicitation for Charity Act (225 ILCS 460/0/01 et. seq.) shall be considered to have as its primary purpose the seeking or obtaining of gifts or contributions.

- (ii) Any activity where a person goes to three (3) or more residences within a sixty (60) minute period for the purpose of selling or obtaining orders for goods or services where it is represented that proceeds from the payment that is to be made for the good or service will benefit a charitable, political, religious or non-profit organization, organization, corporation or project. The activities covered by this Subsection, include, but are not limited to seeking to obtain orders for books, magazines, periodicals and newspapers, and seeking to obtain orders for food products or other goods.
- (iii) Any activity where a person goes to three (3) or more residences within a sixty (60) minute period for the primary purpose of selling tickets to an event or raffle tickets where it is represented that proceeds from the ticket sales for the event or the raffle will benefit a charitable, political, religious or non-profit association, organization corporation or project. (Ord. No. 02-22, Sec. 1, 8-15-02)

- (4) *Residence* shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure, along with the yard or grounds upon which structure is located.
- (5) *Charitable purpose* shall mean any charitable, benevolent, philanthropic, patriotic or eleemosynary purpose.

Sec. 16-2. License required for peddling and commercial soliciting.

Unless otherwise provided herein, it shall be unlawful for any person to engage in peddling or commercial soliciting within the Village without first obtaining a license as herein provided. Notwithstanding the fact that a group, organization or other entity may have several peddlers or solicitors in the Village at one time, a separate license application shall be filled out for each individual and each individual shall be required to obtain a separate license.

Sec. 16-3. Application for license.

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- (a) The application for a peddler's/commercial solicitor's license shall be made under oath upon a form provided by the Village Clerk. Each original application shall be completed by the individual applicant in full and shall set forth:
- (1) The applicant's name, home address or addresses with zip code during the past three (3) years, social security number, date of birth, sex, and a physical description of the applicant. If the applicant is married, the name and address of the applicant's spouse shall be stated on the application.
 - (2) The name, address and telephone number of the person, firm, corporation, association or organization by whom the applicant is employed or which the applicant represents, and the length of time of such employment or representation;
 - (3) The name and address of the applicant's employer during the past three years, if other than the present employer;
 - (4) A description of the goods, articles, commodities or services that will be the subject of peddling or the soliciting of orders;
 - (5) A statement as to whether the applicant desires to be licensed to peddle from a vehicle, or from a pushcart, pack, basket or other receptacle to be carried by the peddler;
 - (6) The number and description of any vehicles to be used in peddling or soliciting, including the vehicle make, model year, model and style, color and license number;
 - (7) The period of time to be covered by the license being sought;
 - (8) The date, or approximate date, of the latest previous application for license under this Chapter or its predecessor;
 - (9) Whether a license issued to the applicant under this Chapter, or its predecessor, has ever been revoked;
 - (10) Whether the applicant has ever been convicted of a violation of any of the provisions of this Chapter, its predecessor, or any ordinance of any other Illinois municipality, or any Illinois Statute, regulating soliciting or peddling;
 - (11) Whether the applicant has ever been convicted of the commission of a felony under the laws of the State of Illinois, or any other State, or under the laws of the United States;
 - (12) Evidence that the applicant is authorized to solicit or peddle for the firm, corporation or organization represented.

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- (b) All applicants subject to the Transient Merchant Act of 1987 shall submit proof of compliance with this Act upon request of the Village Clerk or Chief of Police and must submit a copy of his or its certificate of registration under the Retailers' Occupation Tax Act.
- (c) The applicant shall also submit such other information or documentation as the Village Clerk and/or Chief of Police may deem necessary to determine the identity of the applicant or to process the application. The Chief of Police may require an applicant to submit to fingerprinting by the Police Department.
- (d) The Chief of Police shall cause to be kept in his or her office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all licenses issued under the provisions of this Chapter, and of the denial of applications. Applications for licenses shall be numbered consecutively in the order filed, and every license issued shall be identified with the duplicate number of the application upon which it was issued.
- (e) No license shall be issued to any person who:
 - (1) has been convicted of the commission of a felony under the laws of the State of Illinois or any other State, or under the Federal laws of the United States, within five (5) years of the date of the application; or
 - (2) has violated any of the provisions of this Chapter or its predecessors; or
 - (3) whose license issued hereunder has previously been revoked, as herein provided.
 - (4) has not complied with any applicable law, ordinance, rule or regulation pertaining to the sale or distribution of the good, article, commodity or service which the applicant is peddling or for which the applicant is soliciting orders or customers.
- (f) No license for peddling or commercial soliciting shall be issued to any individual under the age of fourteen (14).

Sec. 16-4. Issuance and denial of license.

Upon receipt of a properly completed application, the Village Clerk shall submit the completed application to the Chief of Police, who shall evaluate the application no later than five (5) working days after the receipt of the completed application by the Clerk. The Chief of Police shall either issue a license, or notify the applicant in writing that the application has been denied because of the applicant's failure to comply with the requirements of this Chapter or with the requirements of any other provision of this Code which is applicable to the activities of the applicant.

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Sec. 16-5. License fee.

The license fee for peddling and commercial soliciting shall be twenty-five (\$25.00) dollars. Each license shall be valid for no more than thirty (30) days from the date of issuance. (Ord. No. 07-10, Sec. 16, 4-19-07)

Sec. 16-6. Non-commercial soliciting; certificate of registration required.

- (a) All persons seeking to engage in non-commercial soliciting who are sixteen (16) years of age or older must obtain a certificate of registration from the Village Clerk no less than one (1) working day prior to the date on which the soliciting is to occur. Notwithstanding the fact that a group, organization or entity may have several solicitors in the Village at one time, a separate application shall be filled out for each individual and each individual shall be required to obtain a separate certificate of registration.
- (b) The application for a certificate of registration shall include:
 - (1) The applicant's name, home address with zip code, social security number, date of birth, sex, and a physical description of the applicant;
 - (2) The name, address and telephone number of the person, firm, corporation, association or organization by whom the applicant is employed or which the applicant represents, and the length of time of such employment or representation;
 - (3) A description of the subject matter of the soliciting in which applicant will engage;
 - (4) The period of time to be covered by the certificate of registration being sought;
 - (5) The date, or approximate date, of the latest previous application for a certificate of registration under this Chapter or its predecessor;
 - (6) Whether a certificate of registration issued to the applicant under this Chapter, or its predecessor, has ever been revoked;
 - (7) Whether the applicant has ever been convicted of a violation of any of the provisions of this Chapter, its predecessor, or any ordinance of any other Illinois municipality, or any Illinois Statute, regulating soliciting;
 - (8) Whether the applicant has ever been convicted of the commission of a felony under the laws of the State of Illinois, or any other State, or under the laws of the United States;
 - (9) Evidence that the applicant is authorized to solicit for the person, organization, corporation or association represented.

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- (c) Each person who is a "professional fundraiser" or "professional solicitor" as defined in the Solicitation for Charity Act (225 ILCS 460/0.01 et seq.) shall submit to the Village Clerk proof of compliance with said Act including, but not limited to, current registration with the Illinois Attorney General.
- (d) The Chief of Police shall cause to be kept in his or her office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all licenses issued under the provisions of this Chapter, and of the denial of applications. Applications for certificates of registration shall be numbered consecutively in the order filed, and every certificate issued shall be identified with the duplicate number of the application upon which it was issued.
- (e) No certificate of registration shall be issued to any person who:
 - (1) has been convicted of the commission of a felony under the laws of the State of Illinois or any other state, or under the laws of the United States, within five (5) years of the date of the application; or
 - (2) has violated any of the provisions of this Chapter or its predecessors; or
 - (3) whose license issued hereunder has previously been revoked, as herein provided; or
 - (4) has not complied with any applicable law, ordinance, rule or regulation.
- (f) A certificate of registration shall not be valid for a period longer than fourteen (14) days.
- (g) There shall be no fee for a certificate of registration.

Sec. 16-7. Policy on peddling or soliciting.

It is hereby declared to be the policy of the Corporate Authorities of the Village of Fox River Grove that the occupant or occupants of the residences in the Village shall make the determination of whether peddlers or solicitors shall or shall not be invited to their respective residences.

Sec. 16-8. Notice regulating peddling or soliciting.

Every person desiring to secure the protection intended to be provided by the regulations pertaining to peddling or soliciting contained in Section 16-7 shall give notice that the occupant refuses invitation to peddlers and solicitors to the occupant's premises, said notice to be given in the following manner:

- (1) A weatherproof card, approximately three inches by four inches (3" x 4") in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination

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by the occupant, containing the applicable words "NO PEDDLERS OR SOLICITORS INVITED."

- (2) The letters shall be at least one-third inch (1/3") in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting same, at the cost thereof.
- (3) Such card so exhibited shall constitute sufficient notice to any peddler or solicitor of the determination by the occupant of the residence of the information contained thereon.

Sec. 16-9. Restrictions applicable to soliciting and peddling.

- (a) It is hereby declared unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of engaging in peddling or soliciting in defiance of a notice posted at the residence in accordance with the provisions of Section 16-8.
- (b) It is hereby declared unlawful and shall constitute a nuisance for any person to remain in any residence or upon any premises for the purpose of engaging in peddling or soliciting after the occupant or owner of such residence or premises has requested that the person leave such residence or premises.
- (c) It is hereby declared unlawful and a nuisance for any person who has not made a pre-arranged appointment with the occupant, to go upon any premises, and ring the doorbell or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of engaging in peddling or soliciting between nine o'clock (9:00) p.m., and eight o'clock (8:00) a.m. on the following day.
- (d) It shall be unlawful for any person who engages in peddling or commercial solicitation to use any plan, scheme or ruse, or to make any statement, which indicates or implies that the purpose of such person's peddling or solicitation is other than to obtain orders for or to make sales of goods or services.
- (e) The license or certificate of registration of any peddler or solicitor shall be displayed on the outer garment of the peddler or solicitor at all times while the person is engaged in soliciting or peddling within the Village.
- (f) It shall be unlawful for any person who engages in peddling or soliciting to misrepresent the right of a buyer to rescind or cancel a sale under the provisions of applicable laws.
- (g) It shall be unlawful for any person who engages in peddling or soliciting to cheat, deceive or make fraudulent misrepresentations, whether through himself or through an employee, while acting as a peddler or solicitor within the Village.

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- (h) It shall be unlawful for any person engaged in peddling or soliciting to interfere with vehicular, bicycle or pedestrian traffic on any public right-of-way, or to display any goods, merchandise or wares on any Village property or right-of-way, or within one hundred (100') feet of the intersection of any public right-of-way or driveway, except as provided in Division 2 of this Chapter.
- (i) Any person engaging in peddling or commercial soliciting within the Village, thereby gives his consent to inspection by the Police Department of his goods, wares and merchandise as to sanitation and as to compliance with the kinds of goods, wares or merchandise stated in the person's application for a license.

Sec. 16-10. Revocation; grounds.

Any license or certificate of registration issued pursuant to this Article shall be revoked by the Chief of Police if the holder of the certificate is convicted of a violation of any of the provisions of this Article, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this Article. Such revocation shall become effective seven (7) days after the Chief of Police delivers notice of revocation to the holder of the license or certificate in person or mails notice of revocation to the holder of the license or certificate by certified U.S. Mail addressed to his residence address set forth in the application unless the holder of the license or certificate files a written request within such seven (7) day period with the Village Clerk requesting that the Village President conduct a hearing on the revocation. If a hearing is requested, the hearing shall be conducted by the Village President. Following the hearing the Village President shall issue a written decision as to whether the license or certificate should be revoked.

Sec. 16-11. Enforcement.

The Police Department, under the direction of the Chief of Police, shall have the duty to enforce the provisions of this Chapter, including the conducting of all required inspections.

Sec. 16-12. Penalties.

Any person, firm or corporation found guilty of violating any provision of this Chapter shall be fined not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Secs. 16-13--16-19. Reserved.

DIVISION 2. SOLICITATION ON HIGHWAYS

Sec. 16-20. Location for solicitation.

No person shall engage in peddling or commercial soliciting while standing on any highway within the Village. No person shall stand on any highway within the Village while engaged in non-commercial soliciting unless such person is soliciting contributions from occupants of a vehicle at the intersection of a highway when traffic has come to a full stop. A person soliciting such contributions must have a valid certificate of registration as provided in this Chapter.

Sec. 16-21. Liability for injuries.

Nothing in this Chapter shall relieve any person who is engaged in soliciting contributions on a highway or the organization or association on whose behalf the solicitation is being made from liability for injuries to persons or property which are caused by the negligent or intentional acts or omissions of such person.

Sec. 16-22. Age requirement.

Any person engaged in the act of non-commercial solicitation on a highway shall be sixteen (16) years of age or more and shall be wearing a high visibility vest.

Secs. 16-23--16-26. Reserved.

ARTICLE II. HANDBILLS AND SAMPLES

Sec. 16-27. Indiscriminate distribution in public places prohibited.

It shall be unlawful for any person to indiscriminately distribute to the public any cards, circulars, handbills, samples of merchandise or any matter for the purpose of advertising the sale of a good, article, commodity or service on any public street or sidewalk or other public place in the Village; provided that this Section shall not be construed to prohibit the peddling or sale of any article or publication that may carry or be accompanied by advertising matter where a charge is made or a price is paid for such article or publication.

Sec. 16-28. License required for house to house distribution; exception.

It shall be unlawful for any person to distribute indiscriminately to the public, by leaving at stores, offices, houses or residences in the Village, any cards, circulars, samples of merchandise, handbills or any matter for the purpose of advertising the sale of a good, article or commodity without having first secured a license therefor; however, this Section shall not be construed to apply to the sale of articles by licensed or registered solicitors or licensed peddlers.

Sec. 16-29. Application for license; contents.

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Applications for licenses required by this Article shall be made to the Village Clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant, the name of the manufacturer or distributor of the good, article or service advertised, the dates on which the article, card or advertisement will be distributed and the location(s) where the distribution shall occur. The application shall also state whether the applicant has been convicted of a felony under the laws of Illinois, another State or the United States.

Sec. 16-30. License fee and duration.

The fee for a license required by this Article shall be twenty-five (\$25.00) dollars. Each license shall be issued for a period not to exceed thirty (30) days. No license shall be issued to any person who has been convicted of a felony during the preceding five (5) years. (Ord. No. 07-10, Sec. 17, 4-19-07)

Sec. 16-31. Fraudulent advertiser.

It shall be unlawful for any person to distribute a card, handbill, circular, samples of merchandise or other matter advertising the sale of a good, article or service which is deceptive or contains fraudulent misrepresentations.