

Chapter 50

PEDDLERS AND SOLICITORS*

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ARTICLE I. IN GENERAL

Secs. 50-1—50-30. Reserved.

ARTICLE II. SOLICITATION

DIVISION 1. GENERALLY

Sec. 50-31. Purpose.

It is the declared purpose of this article to prevent crime and protect the health and safety of the citizens of the village, to ensure that the village police department is aware of the number and identity of persons who will be soliciting, hawking, or peddling for commercial or charitable purposes and the geographical area and time periods in and during which such activities will occur within the village, and to prevent the imitation of charitable purposes and organizations by unscrupulous individuals who would defraud the public and cause charitable purposes and organizations to be endangered by the suspicion engendered by such practices, and to protect the welfare, safety, peace, comfort, and convenience of the public in their homes and traveling upon the streets, highways and sidewalks within the village.

(Code 1977, § 35.01)

Sec. 50-32. 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:

Charitable means and includes the words patriotic, philanthropic, social services, welfare, benevolent, educational, civic or fraternal, either actual or purported.

Charitable solicitation means the request, by a person on sidewalks and at residences within the village, directly or indirectly, of money, credit, property, financial assistance or other things of value on the plea of representation that such money, credit, property, financial assistance or other things of value will be used for a charitable purpose as those purposes are defined in this article. These words shall also mean and include

any oral or written request or exchange of literature for money or other things of value, the distribution, circulation, posting or publishing of any handbill, written advertisement or publication, the public making of an announcement concerning an appeal, assemblage, athletic or sporting event, bazaar, benefit, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or social gathering to be held within the village, which the public is requested to make contribution for any charitable purpose connected therewith, or the sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket, or other things in connection with which any appeal is made for any charitable purposes or where the name of any charitable person is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any charitable purpose.

Commercial solicitation means the sale of or seeking to obtain orders for the purchase of goods, wares, merchandise, food stuff or services of any kind, character, or description for any kind of consideration whatsoever, the sale of or seeking to obtain subscriptions to books, magazines, periodicals, newspapers or any type of publication, or the gathering of information used to supplement publications, newspapers, books, or periodicals that will be offered for sale.

Contributions means and include the words food, clothing, money, subscriptions, property, alms, or donations under the guise of a loan of money or property.

Hawker means any person who displays or purportedly exhibits his wares and audibly cries to announce their existence for sale.

Itinerant vendor means any person who transports tangible personal property for retail sale within the village who does not maintain in the village an established office, distribution house, sales house, warehouse, service center, or residence from which such business is conducted. However, this definition does not apply to any

person who delivers tangible personal property within the village who is fulfilling an order for such property which was solicited or placed by mail or other means.

Peddler means any person who travels about selling small wares which he carries with him.

Person means any individual, firm, co-partnership, corporation, company, association or joint stock association, society, organization or league, and includes trustee, receiver, assignee, agent or other similar representative thereof.

Residence means and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Transient merchant means any person who is engaged temporarily in the retail sale of goods, wares or merchandise in the village and who, for the purposes of conducting such business, occupies any building, room, vehicle, structure of any kind, or vacant lot. However, this definition does not apply to any person selling goods, wares, or merchandise which are raised, produced or manufactured by him, and to any person selling vegetables, fruit, or perishable farm products at an established village market, and to any person operating a store or refreshment stand at a resort, and to any person operating a stand or booth on or adjacent to property owned by him or upon which he resides, or to any person operating a stand or booth at a state or county fair.
(Code 1977, § 35.02)

Cross reference—Definitions generally, § 1-2.

Sec. 50-33. Village policy on peddling, hawking, and soliciting.

It shall be the policy of the governing body of this village that the occupant or occupants of any residence located within the village shall make a determination of whether solicitors or any person shall be or shall not be invited to their respective residences. Any person or solicitor who is not, pursuant to the provisions contained in this article, invited onto the premises of any residence or who has obtained entrance to such premises and

does not leave such premises, upon being so requested by the occupant or occupants of such premises, shall be deemed a trespasser.
(Code 1977, § 35.09)

Sec. 50-34. Notice regulating soliciting.

Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this article shall give notice to the determination by the occupant of the refusal of invitation to solicitors to any residence by displaying a card upon or near the main entrance door to the residence, containing such language as "No Solicitors," or "No Solicitors Invited," or such other language as would indicate that solicitors are not to enter or engage in solicitation on the premises.
(Code 1977, § 35.10)

Sec. 50-35. Solicitors to obey notice or to leave when requested.

(a) It shall be the duty of every solicitor, upon going onto the premises in the village upon which a residence is located, to first examine the notice provided in section 50-34, if any is attached, and be governed by the statement contained hereon. If the notice states "No Solicitors," or "No Solicitors Invited," or other language as would indicate that the solicitors are not to enter or engage in solicitation on the premises, the solicitor shall immediately and peacefully depart from the premises.

(b) Any solicitor who has gained entrance to any residence, whether or not invited, shall immediately and peacefully depart from the premises when requested to do so by the occupant or occupants.
(Code 1977, § 35.11)

Sec. 50-36. Uninvited solicitors prohibited.

It shall be unlawful and shall constitute a nuisance and a trespass for any person to go upon any premises and ring the doorbell upon or near the door, or create any sound in any other manner calculated to attract the attention of the occupant of such a residence for the purpose of securing an audience with the occupant thereof and engage in commercial or charitable solicitation as defined in

this article, in defiance of the notice exhibited at the residence in accordance with the provisions of section 50-34.

(Code 1977, § 35.12)

Sec. 50-37. Time limit on soliciting.

It shall be unlawful and shall constitute a nuisance for any person to go about any residence and ring the doorbell, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such a residence, for the purpose of securing an audience with the occupant thereof and engage in commercial or charitable solicitation, as defined in this article, at any time on Sunday or on a state or national holiday, or before the hour of 9:00 a.m. or after the hour of 9:00 p.m.

(Code 1977, § 35.13)

Sec. 50-38. Peddling, hawking, or soliciting on streets.

It shall be unlawful for any person, individual, corporation or company to solicit, peddle, or hawk on any highway or street within the village.

(Code 1977, § 35.14)

Cross reference—Streets, sidewalks and other public places, ch. 66.

Secs. 50-39—50-55. Reserved.

DIVISION 2. PERMIT

Sec. 50-56. Required.

It shall be unlawful for any person, firm, company or corporation to engage in any type of solicitation, hawking, or peddling within the village limits of the village, without first obtaining a permit as provided in this division.

(Code 1977, § 35.03)

Sec. 50-57. Exemptions.

No permit fee shall be required from any person from whom the village is prohibited by state or federal law from requiring a permit fee.

(Code 1977, § 35.04)

Sec. 50-58. Types of permits.

The types of permits that are issued by the village are transient merchant, itinerant vendor, commercial solicitor, charitable solicitor, peddler or hawker.

(Code 1977, § 35.05)

Sec. 50-59. Application information and procedure.

(a) *Peddlers and hawkers.* Applications for peddlers' or hawkers' permits shall be made to the village chief of police or his designee, and shall state thereon the full name of the applicant, permanent home address of the applicant, length of time at permanent residence, and if less than three years, previous permanent residence, physical description of applicant, make, license number, and description of all vehicles, if any, intended to be operated while peddling or hawking and a description of all merchandise to be offered for sale.

(b) *Transient merchants and itinerant vendors.*

(1) Application for transient merchants and itinerant vendors shall be made to the village chief of police or his designee, and shall state thereon the full name of the applicant, permanent business address, which must include a street address, permanent address of the principal and if the applicant is a corporation, the residence addresses of its officers, the location at which the applicant intends to do business, the nature of the business the applicant intends to conduct, a copy of the applicant's certificate of registration under the Home Rule Municipal Retailer's Occupation Tax Act, 65 ILCS 5/8-11-1 et seq., a complete inventory of goods the applicant intends to offer for sale, and a list of all permits to conduct business as a transient merchant or an itinerant vendor obtained by the applicant in the village in the 12 months preceding the date of filing the application.

(2) The applicant shall file with the village police department a surety bond or cash deposit. The amount of the bond or cash deposit shall be equal to 50 percent of the

wholesale value of the merchandise that the applicant intends to offer for sale; however, the amount of the bond or cash deposit shall not be less than \$1,000.00 nor more than \$10,000.00.

- (3) The village police department shall transfer the deposit or bond to the attorney general of the state within 14 days after the applicant ceases to do business in the village and the attorney general shall hold such deposit or bond for two years for the benefit of any person who suffers loss or damages as a result of the purchase of merchandise from such person licensed under this article or as a result of the negligent or intentionally tortious act of the person licensed under this article. The attorney general shall pay any portion of the bond or deposit that is payable to any person in accordance with any court order without making an independent finding as to the amount of the bond or deposit that is payable to that person. Any balance of such deposit held by the attorney general two years after the expiration of a permit of a person under this article shall be refunded to the person.
- (4) A permit under this article for transient merchants and itinerant vendors shall expire on December 31 of the year it was issued. The terms of peddlers' and hawkers' permits shall be determined by the amount paid under subsection 50-60(c).
- (5) If any person makes retail sales as a transient merchant or itinerant vendor without having obtained a permit under this article, the village police department may hold the inventory, truck or personal property of the person until he obtains a permit to conduct business as a transient merchant or itinerant vendor. If the property has been held by the police department for more than 60 days and the person whose property is being held has not obtained a permit under this article, the police department may petition the circuit court for an order of sale of property being held. If the court finds that the person whose property is held has not

obtained a permit under this article, the court may order the police department to sell the property. Proceeds of the sale of the property, less reimbursement to the police department for reasonable expenses of storage and sale of the property, shall be deposited in the treasury of the village.

State law reference—Similar provisions, 225 ILCS 460/1 et seq.

- (6) It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this article if the person does not transact business from a fixed location or if the person does not own or lease for a term of at least six months the property from which the business is conducted.
- (c) *Commercial or charitable solicitation.*
- (1) Every person desiring to engage in commercial or charitable solicitation as defined in this article from persons in residences, or on sidewalks located in the village, except for a merchant conducting a sale on the sidewalk immediately adjacent to his place of business, is hereby required to make written application for a solicitation permit as provided in this section, and obtain such permit prior to engaging in solicitation within the village.
 - (2) Application for a solicitation permit shall be made to the village chief of police or his designee.
 - (3) Commercial solicitors permit applications shall include the name and permanent address of the applicant, the length of residence at address and, if not more than three years, the previous permanent address of the applicant, social security number, physical description of the applicant and make, license number and description of all vehicles, if any, intended to be used during the solicitation, name and address of the person, firm, corporation or association with whom the applicant is employed or represents and the length of time of such employment or representation, a description sufficient for identifi-

cation of the subject matter of the soliciting in which the applicant will engage, the starting date and termination date of which the permit is to be used, provided that the maximum time period for which the permit shall be issued shall not exceed 30 days, information as to whether the applicant has ever been convicted of a violation of any of the provisions of this article, and information as to whether the applicant has ever been convicted of the commission of a felony under the laws of the state or any other state or federal law of the United States, or misconduct which constitutes a Class A misdemeanor under the state law within five years of the date of the permit application.

- (4) Charitable solicitation permit applications shall include the name of the organization and the name under which it intends to solicit contributions, the name and address of the person in charge of the solicitation in the village, the names and addresses of all persons who will solicit contributions in the village, the dates and times of day such solicitations are to be made and the geographic area in the village wherein such solicitation shall be conducted at a particular time and day, provided that the maximum time period for which the permit shall be issued shall not exceed 30 days, and provided the permit renewals shall not exceed 30 days, a written statement of a recent date set by the attorney general of the state that the organization is in compliance with the provisions of 225 ILCS 460/0.01 et seq., and such statute as it may hereafter be amended, and a written statement from the Internal Revenue Service that the organization is a tax exempt organization under the Internal Revenue Code of the United States, Section 501(c)(3).
- (5) No solicitation permit permitting door-to-door residential solicitation shall be issued to any person who has been convicted of the commission of a felony under the laws of this state, or any other state or federal law of the United States, or mis-

conduct which constitutes a Class A misdemeanor under state law, within five years of the date of the permit application. No solicitation permit shall be issued to any person who has been convicted of a violation of any of the provisions of this article, nor to any person whose solicitation permit issued under this division has previously been revoked, as provided in this division, for a period of one year from the date of such conviction or revocation.
(Code 1977, § 35.06)

Sec. 50-60. Fees.

(a) *Commercial solicitation.*

- (1) The fee for the original commercial solicitation permit shall be the sum of \$10.00.
- (2) The fee for renewal of the commercial solicitation permit is \$5.00.

(b) *Charitable solicitation.* There shall be no charge for the issuance of a charitable solicitation permit; however, it is a condition that all information that is required by this article be submitted.

(c) *Hawker and peddler permit.* The fee for a peddler or hawker using a cart, wagon, auto, or any other vehicle shall be \$100.00 for each cart or other vehicle for a yearly permit, \$25.00 for each cart or other vehicle for a monthly permit, and \$10.00 for each cart or other vehicle for a daily permit. The fee for the peddlers and hawkers not using any carts, wagons, autos, or any other vehicles shall be the same as provided in this section per person.
(Code 1977, § 35.07)

Sec. 50-61. Issuance, revocation, and renewal of permits.

(a) The chief of police or his designee, within seven days of filing the application, after consideration of the application and all information obtained relative thereto, shall approve or deny the issuance of the permit. If the applicant has complied with all the provisions of this article, then a permit will be issued. If the applicant is not entitled to the permit, pursuant to the provisions of this article or if the application does not

contain all of the information or documentation required by this article, then the permit shall be denied. Endorsement shall be made by the chief of police or his designee on the application of the reason for the denial and a copy given to the applicant. If the application is denied, the permit fee shall be deemed to have covered the cost of the investigation and shall not be returned.

(b) A commercial solicitation permit shall be issued by and remain the property of the village. It shall be prominently displayed on the outermost clothing of the solicitor and shall contain the name of the solicitor, a full facial photograph of the solicitor (to be supplied by the solicitor), the name of the soliciting company, the issuance and termination dates of the solicitation permit, and the signature of the chief of police.

(c) A charitable permit shall be issued by and remain property of the village. It shall be prominently displayed on the outermost clothing of the solicitor and shall contain the name of the solicitor, a full facial photograph of the solicitor (to be supplied by the solicitor), the name and address of the charitable organization, the issuance and termination dates of the solicitation permit, and the signature of the chief of police.

(d) Upon expiration of a solicitation permit, the holder shall be entitled to renew the permit, provided that the application for renewal continues to satisfy all conditions and requirements necessary to obtain an original permit and provided any changes in the information originally submitted in the initial application, if any, are made. The applicant for a renewal of a solicitation permit shall also pay the fee required for a renewal permit.

(e) Any solicitation permit issued under this article may be revoked by the chief of police or his designee for any violation of this article, or if false material statements have been made in the application, or if the permit holder otherwise becomes disqualified for the issuance of a solicitation permit under the terms of this article. Immediately upon such revocation, written notice thereof shall be given by the chief of police or his designee to the holder of the permit in person or by the United States mail, return receipt requested, addressed to his residence address as set

forth in the application. The permit shall become null and void upon the first to occur of the following:

- (1) Actual notice of revocation;
- (2) Return of the return receipt of the mailed notice, whether or not delivered to the permit holder personally.

(Code 1977, § 35.08)

Sec. 50-62. Appeal of permit denial or revocation.

(a) The village administrator shall hear appeals on the denial of an application for a solicitation permit or revocation of a permit by the chief of police. A written appeal must be filed in the village administrator's office within 21 days after the date of denial of the application or revocation of the permit by the chief of police and shall contain a specific request for or waiver of a hearing before the village administrator.

(b) When a hearing is waived, the appealing party shall submit what documentation it desires to have the village administrator consider with the written appeal. The village administrator shall render a decision within 14 days of the filing of the written appeal.

(c) If a hearing is requested, the village administrator shall schedule a hearing to be held within 30 days of receipt of the written appeal. The appealing party shall have the right to file additional documents, amend the written appeal, and to appear at such hearing in person, or by attorney, or otherwise, to examine and cross examine witnesses.

(d) The village administrator shall not be bound by the rules of evidence prevailing in the courts of the law, but shall, in ascertaining the conditions and practices involved in the decision appealed, take into account all reliable, probative and substantial evidence produced at the hearing relative to the denial of the application or revocation of the permit.

(e) The appealing party may supply, at its own cost, a court reporter.

(f) The written decision of the village administrator shall be made available to the appealing party not later than ten days after the hearing on the appeal is concluded.

(Code 1977, § 35.15)

Sec. 50-63. Penalties.

Any person, individual, firm, corporation, or company violating any provision of this article shall be fined not less than \$50.00 nor more than as provided in section 1-11 and each individual incident shall be considered a separate violation. Further, the village may seek and obtain injunctions against persons violating the terms and conditions of this article and shall not otherwise be limited in remedies.

(Code 1977, § 35.16)