

CHAPTER 3
SOLICITORS & PEDDLERS

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3-3-1 DEFINITIONS

CONTRIBUTION: The promise or grant of any donation, money, alms, food, clothing or property of any kind or value.

OBSCENITY: Any material that the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and taken as a whole, it lacks serious literary, artistic, political or scientific value.

SOLICIT: To go to any premises in the Village without prior appointment or prearrangement with the occupant of such premises or to go upon any public street, sidewalk or other property owned by the Village to ask for a contribution; or to sell, offer for sale, barter or exchange, or to take orders for the present or future delivery of any good, service, ware, merchandise or other article or thing whatsoever.

SOLICITOR/PEDDLER: Any person who goes to any premises in the Village without prior appointment or prearrangement with the occupant of such premises, or goes upon any public street, sidewalk or other property owned by the Village to ask for a contribution; or to sell, offer for sale, barter or exchange, or to take orders for the present or future delivery of any good, service, ware, merchandise or other article or thing whatsoever. For purposes of this ordinance, Solicitor or Peddler are considered one in the same.

3-3-2 DECLARATION OF VILLAGE POLICY

It is hereby declared to be the policy of the Village President and Board of Trustees that the occupants of premises in the village shall have the opportunity to determine whether solicitors will be invited to solicit at such premises; or will be prohibited from soliciting at such premises under any circumstances. Such election shall be made by posting a notice in the manner set forth in section 3-3-3 of this chapter.

3-3-3 FORM OF NOTICE PROHIBITING SOLICITORS

- A. Each resident who desires to secure the protection intended to be provided by the regulations pertaining to solicitors contained in this chapter may elect to prohibit solicitors at his or her residence or place of business by posting upon or within thirty inches (30") of the main entrance door to his or her residence or place of business a weatherproof card, approximately three inches by four inches (3" x 4") in size as follows:

NO SOLICITORS INVITED

- B. Such notice shall be printed with letters at least one-third inch (1/3") in height. For the purpose of uniformity, the cards shall be provided by the village clerk to persons requesting them, at the cost thereof.
- C. Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of such premises to prohibit solicitation as therein stated.
- D. If no such card is posted, it shall be presumed that the occupant has elected not to prohibit solicitors.

3-3-4 DUTY OF SOLICITORS

It shall be the duty of every solicitor, upon going onto any premises in the municipality to first examine if notice provided for in section 3-3-3 of this article is attached and to be governed by the statement contained on such notice. If the notice states "No Solicitors Invited" or words to that effect, then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises. Any solicitor who has gained entrance to any residence or business, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

3-3-5 UNINVITED SOLICITING PROHIBITED

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any residence and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof in order to "solicit" as herein defined, in defiance of the notice exhibited at such residence in accordance with section 3-3-3 of this chapter or oral notice given in accordance with the provisions of section 3-3-4 of this chapter.

Application for a certificate of registration shall be made upon a form provided by the Chief of Police and filed with the Chief of Police. The applicant shall truthfully state in full the information requested on the application, to-wit:

- A. Name and address of present place of residence and length of residence at such address; also phone number; also driver's license number and state of issuance; also Social Security number.
- B. Name and address of business solicitation is being performed on behalf of; also phone number.
- C. Description of item(s) being sold.
- D. List of previously solicited communities in the past twelve (12) months; also if permits/badges were issued.
- E. List of solicitor's badge or permit revocations.
- F. Whether the applicant was ever convicted of a violation of any provision of this chapter, or the ordinance of any other Illinois municipality regulating soliciting.
- G. Whether the applicant was ever convicted of the commission of a felony under the laws of the State of Illinois or any other state or federal law of the United States.
- H. Period of time for which the certificate is applied for.
- I. Such additional information as the Chief of Police may deem necessary to process the application.
 1. All statements made by the applicant upon the application or in connection therewith shall be under oath.
 2. The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this chapter, and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.
 3. No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other state or federal law of the United States, within 5 years of the date of the application; nor to

any person who has been convicted of a violation of any of the provisions of this chapter, nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

3-3-7: TIME LIMIT ON SOLICITING

It is unlawful and shall constitute a nuisance for any person whether registered under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, 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 residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to ten o'clock (10:00) A.M. or after five o'clock (5:00) P.M. of any weekday, Monday through Thursday, or at any time on a Friday, Saturday, Sunday or on a state or national holiday.

3-3-8: FRAUD

It shall be unlawful for any solicitor to cheat or deceive any person or to make any fraudulent misrepresentation, whether through himself or herself or through an employee or agent, while acting as a solicitor in the village.

3-3-9: LOUD NOISES AND SPEAKING DEVICES

No solicitor, nor anyone on his or her behalf, shall, for the purposes of attracting attention to his or her solicitation or to any goods, wares or merchandise which such solicitor proposes to sell, blow a horn or use any other sound device, including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the Village, or upon any private premises in the Village, where the volume of sound emitted or produced therefrom and reaching any portion of such public places or private premises unreasonably interferes with the enjoyment of life by any resident of Hebron.

3-3-10: SOLICITING ON HIGHWAYS AND STREETS RESTRICTED

No solicitor shall stand upon any highway or public street for the purpose of soliciting contributions from the occupant of any vehicle in violation of section 11-1006 of the Illinois vehicle code.

- A. Solicitation on public highways or streets in Hebron shall be permitted only at the following intersections where all traffic is required to come to a complete stop:

State Route 47 (Main Street) and State Route 173 (Maple Avenue)

Solicitations will be permitted only between the hours of seven o'clock (7:00) A.M. and three o'clock (3:00) P.M. daily, upon the following conditions:

- B. The soliciting agency shall be registered with the Illinois attorney general as a charitable organization as provided by "an act to regulate solicitation and collection for funds for

charitable purposes, provide penalties for violations thereof, and making an appropriation therefor", approved July 26, 1963, as amended.

- C. The soliciting agency shall be engaged in a statewide fundraising activity. "Statewide fundraising activity" shall mean fundraising throughout the state of Illinois which occurs on the same day or days.
- D. The soliciting agency shall be liable for any injuries to any person or property during the solicitation which is causally related to any act of ordinary negligence of the soliciting agent.
- E. No permit shall be issued to more than one person or agency on any given day or days, nor shall any permit be issued for more than three (3) consecutive days.
- F. No permit shall be issued to any person or agency more than once in a calendar year.
- G. Solicitation shall only be permitted on Thursdays, Fridays, Saturdays or Sundays between the hours of:
 - 7:00 A.M. and 5:00 P.M. from May 1 through September 30; and
 - 7:00 A.M. and 3:00 P.M. from October 1 through April 30.
- H. In case of an emergency or dangerous or potentially dangerous situation, as determined by the Chief of Police or his designated agent, or in the case of the conduct of any solicitor being deemed to be detrimental to the safety, welfare or best interest of the Village, the Village shall have the authority to suspend or revoke any solicitor's permit for such period of time as deemed necessary under the circumstances.
- I. Insurance Required: Prior to the issuance of a Solicitation Certificate, the applicant shall provide the Chief of Police with a certificate of insurance issued by an insurance company licensed to do business in the State of Illinois indicating that the insurance company will insure the solicitor and the business or organization represented by the solicitor against any injury to any person or property during the solicitation. Such certificate of insurance shall name the Village as an additional party insured and provide, at a minimum, the following coverage, and indicate the following:

Evidence that the soliciting agency has commercial general liability and property damage insurance in full force and effect covering the days on which the soliciting agency intends to solicit on the said highways or public streets in the Village to protect it from claims for bodily injury, including personal injury and accidental death in an amount not less than five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per occurrence, as well as claims for property damage, in an amount not less than one million dollars (\$1,000,000.00) for bodily injury on account of any one occurrence, with combined aggregate limits of not less than one million dollars (\$1,000,000.00). Said certificate of insurance shall name the Village as additional insured

thereon and shall provide the insurance policy is non-cancellable unless the Village is given thirty (30) days prior written notification.

3-3-11: USE OF STREETS

No solicitor shall have any exclusive right to any location in the public streets, right of way, or other public property, nor shall he or she be permitted to operate in any congested area where his or her operations unreasonably impede or obstruct use of same by the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public unreasonably impeded or obstructed.

3-3-12: OBSCENE MATERIALS

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such premises, for the purpose of securing an audience with the occupant thereof in order to "solicit" any "obscene" writing, picture, record or other representation or embodiment of "obscenity" as defined in section 3-3-1 of this chapter; provided, however, that said solicitor has knowledge of the nature of the content thereof, or recklessly fails to exercise a reasonable inspection thereof which would have disclosed the nature of the content. Nothing in this section shall be construed as authorizing the prior restraint of the solicitation of any allegedly obscene materials.

3-3-13: UNLAWFUL SOLICITATION

It shall be unlawful for any person to solicit within the corporate limits of the Village if he or she has been convicted of any felony or a misdemeanor involving moral turpitude or has been found to have violated any consumer fraud law of the state, or any other state or of the United States by any court or administrative agency within the last five (5) years.

3-3-14: PROHIBITION OF FURTHER SOLICITATION

The Chief of Police shall notify a solicitor by certified mail, return receipt requested, and the Village attorney shall be and he is hereby authorized to apply to either the United States district court for the Northern District of Illinois or the Circuit Court of McHenry County, Illinois, for a judicial determination as to whether further solicitation in the village by such solicitor may be prohibited if any of the following occur:

- A. A violation of any of the provisions of sections 3-3-3C through 3-3-13 of this chapter; or
- B. The Chief of Police or any other agent or employee of the Village receives ten (10) or more bona fide, sworn complaints setting forth facts showing a violation and harm of any provision of this chapter or any of the laws of this state; or
- C. The solicitor has engaged in fraud or misrepresentation to obtain money or property; or

- D. Promising any person that the proceeds of a solicitation of funds will be refunded upon request and thereafter willfully failing to make a written refund request within sixty (60) days; or
- E. Promising any person that he or she will receive a refund upon request without providing a written statement of the refund terms and conditions; or
- F. Knowing misrepresentation that a donor will obtain a federal tax deduction; or
- G. Willful use of solicited funds to commit a crime.

3-3-15: REVOCATION OF CERTIFICATE OF REGISTRATION

Any certificate of registration issued hereunder 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. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the certificate in person or by certified U.S. mail addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the certificate of registration shall become null and void.

3-3-16: PENALTIES

Any person who solicits within the corporate limits of the Village in violation of this chapter is subject to a fine of not less than one-hundred dollars (\$100.00) nor more than seven-hundred-fifty-dollars (\$750.00), and each act of solicitation in violation of this chapter constitutes a separate offense.