

CHAPTER 113: PEDDLERS AND AUCTIONEERS

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§ 113.01 PERMIT REQUIRED

It shall be unlawful for a peddler, solicitor, canvasser or auctioneer, as defined in § 113.02 of this chapter, to engage in such business within the corporate limits of the village without first obtaining a permit therefor in compliance with the provisions of this chapter.
(1989 Code, § 20.000) Penalty, see § 10.99

§ 113.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUCTIONEER. A person who sells land or goods of another at a sale where any and all persons who choose to are permitted to attend and offer bids.

CANVASSER or SOLICITOR. Any individual, whether resident of the village or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not.

PEDDLER. Any person, whether a resident of the village or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, boat or other vehicle or conveyance. A person who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a **PEDDLER** subject to the provisions of this chapter. The word **PEDDLER** shall include the words **HAWKER** and **HUCKSTER**.

PERSON. Includes the singular and the plural and shall also mean and include any person, partnership, firm, corporation or any other organization.
(1989 Code, § 20.010)

§ 113.03 APPLICATION

(A) Thirty days prior to the conducting of any business controlled by this chapter, applicants for permit under this chapter must file with the Village Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Village Clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (permanent residence, business and local);
- (3) A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the same, together with VIN, license number or other means of identification;
- (7) A clear two-inch by two-inch head and shoulder photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application;
- (8) The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility; and

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(9) A statement as to whether or not, within the past ten years, the applicant has been convicted of any crime or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(B) At the time of filing the application, an annually established fee shall be paid to the Village Clerk to cover the cost of investigation.
(1989 Code, 20.020)

§ 113.04 INVESTIGATION AND ISSUANCE

(A) Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made for the protection of the public good.

(B) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and his or her reasons for the same and return the said application to the Village Clerk for review at the Council's next regular meeting.

(C) If, as a result of each investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his or her approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Village Clerk, who shall present the application and permit to the Village Council for approval at its next regular meeting.

(D) The Village Clerk shall notify the applicant of the time, date and place of the Council meeting at which the application and police report shall be reviewed.

(1) The applicant shall appear before the Council at that time to respond to inquiries.

(2) If Council chooses to disapprove of the permit, it shall state its reasonable basis in the rejection motion.

(3) If Council chooses to approve the application and permit, as submitted or modified, it shall direct the Village Clerk to collect the prescribed fee and deliver to the applicant his or her duly authorized permit.

(E) Each permit shall contain:

(1) The signature and seal of the issuing officer;

(2) The name, address and photograph of said permittee;

(3) The class of permit issued and the kind of goods to be sold thereunder;

(4) The amount of fee paid;

(5) The date of issuance and the length of time the same shall be operative; and

(6) The license number and other identifying description of any vehicle used in such peddling.

(F) The Clerk shall keep a permanent record of all permits issued.

(G) Peddlers, auctioneers, solicitors and canvassers are required to exhibit their permits at the request of any citizen.

(H) All annual permits issued under the provisions of this chapter shall expire on December 31 in the year when issued. Other than annual permits shall expire on the date specified in the license. (1989 Code, § 20.030)

§ 113.05 FEES

(A) The application and daily, weekly, monthly or annual permit fee shall be set annually by the Village Council. (See the annual fee resolution.)

(B) None of the permit fees provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce.

(1) In any case where a permit fee is believed by a permittee or applicant for permit to place an undue burden upon such commerce, he or she may apply to the Village President for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce.

(2) Such application may be made before, at or within six months after payment of the prescribed permit fee.

(3) The applicant shall, by affidavit, and supporting testimony, show his or her method of business and the gross volume or estimated gross volume of business and such other information as the President may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

(4) The President shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he or she shall determine whether the fee fixed by this chapter is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the permit fee for the applicant, an amount that is non-discriminatory, reasonable and fair. If the fee has already been paid, the President shall order a refund of the amount over and above the fee so fixed.

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(5) In fixing the fee to be charged, the President shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by division (A) above.

(6) Should the President determine the gross sales measure of the fee to be the fair basis, he or she may require the applicant to submit, either at the time of termination of applicant's business in the village or, at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor; provided that, no additional fee during any one calendar year shall be required after the permittee shall have paid an amount equal to the annual permit as prescribed in division (A) above.

(1989 Code, § 20.040)

§ 113.06 BOND

(A) Every applicant, not a resident of the village or who, being a resident of the village represents a firm whose principal place of business is located outside the state, shall file with the Village Clerk a surety bond, running to the village in the amount of \$1,000, with surety acceptable to and approved by the President.

(B) The purpose of the bond shall be to ensure compliance with all the provisions of the ordinances of the village and the statutes of the state regulating and concerning the business of solicitor and guaranteeing to any citizen of the village that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of the village doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor.

(C) Action on such bond may be brought in the name of the village to the use or benefit of the aggrieved person(s).

(1989 Code, § 20.050)

§ 113.07 BADGES OR TAGS

(A) The Council may direct the Village Clerk to issue to each permittee at the time of delivery of his or her license a badge or tag which shall contain:

(1) The words "Licensed Peddler" or "Licensed Auctioneer", as the case may be;

(2) The period for which the permit is issued; and

(3) The number of the permit in letters and figures easily discernible from a distance of ten feet.

(B) Such badge shall, during the time such permittee is engaged in peddling or soliciting, be

worn constantly by the permittee on the front of his or her outer garment in such a way as to be conspicuous.

(1989 Code, § 20.060) Penalty, see § 10.99

§ 113.08 REVOCATION OF PERMIT

(A) Permits issued under the provisions of this chapter may be revoked by the President of the village after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement in the course of carrying on his or her business as solicitor or as canvasser;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude; or

(5) Conducting the business of soliciting, or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(B) Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his or her last known address or served personally upon him or her at least five days prior to the date of hearing. Upon service of said notice, the license of said licensee shall be temporarily suspended, pending such hearing.

(1989 Code, § 20.070)

§ 113.09 APPEAL

Any person aggrieved by the action of the Chief of Police or the Village Clerk in the denial of a permit as provided in § 113.04 of this chapter or the action of the President in the assessing of the fee as provided in § 113.05 of this chapter shall have the right of appeal to the Council of the village. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided in § 113.08(B) of this chapter for notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive.

(1989 Code, § 20.080)

§ 113.10 EXCEPTIONS

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Any resident of the village or honorably discharged veteran of a United States military unit may apply directly to the Village President for a permit as peddler, auctioneer or solicitor. The President, on his or her own initiative or with the advice and consent of the Council, may direct the Village Clerk to issue such permit without delay, investigation, charge or fee.

(1989 Code, § 20.090)