



Legislation Text

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Title

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 7, CHAPTER 5 OF THE VILLAGE CODE OF THE VILLAGE OF ORLAND PARK, COOK COUNTY, ILLINOIS REGARDING SOLICITORS

Body

WHEREAS, the Village of Orland Park ("Village") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and

WHEREAS, pursuant to the Village's home rule authority, and pursuant to the authority granted to the corporate authorities of municipalities by Sections 11-1-1, 11-42-5, 11-80-2, 11-80-9 and 11-80-20 of the Illinois Municipal Code (65 ILCS 5/11-1-1, 11-42-5, 11-80-2, 11-80-9 and 11-80-20), the President and Board of Trustees of the Village of Orland Park find that the amendments set forth below to Title 7, Chapter 5 (Solicitors) of the Village of Orland Park Village Code ("Village Code") best serve the public health, welfare and safety, and are in the best interests of the Village, its residents and the public;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ORLAND PARK, COOK AND WILL COUNTIES, ILLINOIS:

SECTION 1

Incorporation. Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2

Village Code Amendments. Title 7, Chapter 5 of the Village Code is hereby amended in its entirety to provide as follows:

"7-5-1: DEFINITIONS:

Canvasser: Any person going from door-to-door to engage in purely expressive speech such as advocacy for a particular religion, philosophy, ideology, political party, issue, candidate, or other case.

Charitable Purpose: Any benevolent, philanthropic, patriotic, or eleemosynary purpose and includes the conduct described in Section 480.20(c) of The Charitable Trust Act (14 Ill. Adm. Code 480).

Solicitor: Any person, firm or corporation traveling by foot, vehicle, or any type of conveyance who goes from residence to residence, business to business, or place to place, within the Village and without appointment, for the purpose of taking or attempting to take orders for the sale of goods, wares, merchandise, foodstuffs, subscriptions, or services of any kind, characters or description whatsoever; peddling (providing the article or thing at the time of the transaction); making or requesting appointments, procuring interviews, or arranging for demonstrations or explanations preliminary to any actual solicitation of orders, selling, peddling or hawking; or engaging in other similar activities involving commerce or trade, or the sale of any commercial item. This definition also includes any person who, without invitation, goes upon private property to request contribution of funds or anything of value, or to sell goods or services for political, charitable, religious, or other noncommercial purposes..

Person: Person shall mean any individual, organization, group, association, partnership, corporation, trust, or any combination thereof.

Political Purpose: Any activity in support of bona fide candidates for public office, or any matter related to the election, nomination, or performance of public officials, or issues presented to the electorate at any election.

Residence: 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 and the yard or grounds upon which such structure is located.

Street Solicitation: Street solicitation means the act of any person standing in or on any street, roadway, highway, or intersection within the Village of Orland Park for the purpose of requesting directly or indirectly, money, credit, property, financial assistance, or other thing of value from the occupant of any vehicle.

7-5-2: LICENSING OF SOLICITING: REQUIRED; EXEMPTIONS:

A. Unless otherwise provided in this Chapter, it shall be unlawful for any person to engage in solicitation activities in the Village without first having a license as herein provided.

Notwithstanding the fact that a group may have several solicitors in the Village at one time, a separate application shall be filled out and submitted to the Village for each individual solicitor and each individual solicitor shall be required to obtain a separate license. A license shall not be issued to any individual under the age of fourteen (14).

B. The following are exempt from the licensing provisions set out in 7-5-2:

1. A person seeking to obtain, from an occupant of any resident or business, an indication of the occupant's belief in regard to any political or religious matter;

2. A person conducting a survey or poll, or seeking signatures of Village residents for a petition, such as a zoning or election petition;

3. A person engaging in solicitation at the invitation or request of the person the solicitor contacts;

4. A person carrying, conveying, delivering, or transporting goods, wares, foodstuff, merchandise, newspapers, or services on regularly established routes or to the premises of any person who had ordered such products or goods and is entitled to receive them;

5. Minors engaged in fundraising activities to support: (1) a federally chartered charitable organization (such as Girls Scouts or Boys Scouts of America); (2) an activity organized and operated by a public or private school or unit of local government; (3) an organization organized as a Not For Profit entity and registered with the State of Illinois as a Charitable Organization; or (4) a similar Not For Profit organization that has a chapter or club based in the Village of Orland Park, as approved by the Village Manager; and

6. A canvasser.

C. Any person claiming to be legally exempt from the regulations set forth in this Chapter or from the payment of a license fee shall cite to the Village Clerk the statute or other legal authority under which exemption is claimed and shall present the Village Clerk proof of qualification for such exemption.

7-5-3: APPLICATION FOR LICENSE:

A. Any person desiring a solicitation license shall initially submit an application in writing to the Chief of Police.

B. The application for a license shall be made under oath upon a form provided by the Chief of Police. Each original application shall be completed by the applicant in full and shall set forth:

1. The applicant's name, address and zip code, a copy of the applicant's current driver's license or state issued identification card, 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 whom the applicant is employed by or represents, and the length of time of such employment or representation;

3. A description sufficient for identification of the subject matter of the soliciting in which solicitor applicants will engage.

4. The period of time (not to exceed 30 days) for which the license is applied.

5. Evidence that the applicant is authorized to solicit for the organization represented;

6. Evidence of compliance with the Illinois Solicitation for Charities Act, as applicable;

7. Information, including the date(s), regarding any prior application or use of a solicitation license by the applicant in the Village, and any revocation of a previously issued solicitation license by the Village;

8. Information as to whether a solicitation license has been previously issued to the applicant by any other jurisdiction, and if so, whether the license was ever revoked;

9. Information regarding any conviction of a violation of any of the provisions of this Chapter, its predecessor, or the ordinance of any other Illinois municipality, or any Illinois Statute, regulating soliciting;

10. Information regarding any conviction of any felony or misdemeanor involving dishonesty, theft, fraud, false statements, a threat to public safety, or a crime involving a sex offense, or offenses involving bodily harm against persons under the laws of this State or any other state or federal law of the United States within five (5) years of the date of the license application.

11. If a vehicle is to be used, a description of the same, together with license number or other means of identification.

7-5-4: ISSUANCE AND DENIAL OF LICENSES:

A. Upon receipt of a completed application, the Chief of Police shall review the application and all supporting documentation, and shall cause an investigation to be made as to the applicant's criminal record, if any, and compliance with all of the applicable laws and ordinances of the State and the Village.

B. Within ten (10) working days of receiving the application, the Chief of Police shall issue a solicitation license if a determination is made that:

1. The material statements made in the application are true;

2. The applicant had not been convicted of any felony or misdemeanor involving dishonesty, theft, fraud, false statements, a threat to public safety, or a crime involving sex offense, or offenses involving bodily harm against persons under the laws of this State or any other state or federal law of the United States within five (5) years of the date of the permit application;

3. The applicant has not had a previously issued solicitation license revoked by the Village or by any other municipality within five (5) years of the date of the application.

C. If the Chief of Police determines and finds that the applicant has not met one or more of the above conditions, the Chief of Police shall deny issuance of the solicitation license and shall give written notification of such denial to the applicant. Such notice shall be delivered in person or by U.S. mail, addressed to the residence address set forth in the license application, stating the action taken and the reasons supporting such action.

D. If the Chief of Police fails, within ten (10) business days of receipt of the license application, to act on the application, then, provided that the license fee has been paid, as applicable, the application shall be considered granted.

E. 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 in consecutive order, as filed, and every license issued shall be identified with the duplicate number of the application upon which it was issued.

7-5-5: LICENSE FEES:

To reimburse the Village for the cost of a criminal background check and the cost of administering the solicitation licensing process, the fee shall be one hundred dollars (\$100.00), each license to be valid for no more than thirty (30) days from the date of issuance. The validity of the license originally issued may be extended up to two (2) times, in thirty (30) increments, for a total duration of no more than ninety (90) days. Each thirty (30) day extension must be applied for in writing, or by email, to the Police Department prior to the expiration of a thirty (30) day license period. The extension will be granted unless the Chief of Police determines that the solicitor has committed a violation of a provision of this Chapter as hereinafter provided. A solicitor whose license has expired may apply for a new license in accordance with this Chapter and presentation of his/her badge to the Police Department for inspection.

7-5-6: BADGE REQUIRED:

It shall be the duty of any person engaging in soliciting within the Village to wear in a conspicuous place on his or her outer garment the badge issued by the Chief of Police. It shall be unlawful for any person to engage in soliciting within the Village without wearing and displaying such badge. Every solicitor shall, prior to engaging in soliciting regulated under this Chapter, be issued a badge bearing the words "Registered - Orland Park" or words of similar impact, together with a serial number, which number shall be registered by the Chief of Police. As a condition to receiving such badge and to secure its return, such solicitor shall deposit with the Village the sum of fifty dollars (\$50.00). Each solicitor, upon expiration of his/her license to solicit in the Village, shall surrender the badge to the Chief of Police and upon doing so the Village shall refund the fifty dollar (\$50.00) dollar deposit. If the badge is not so returned, or is returned in damaged condition to the extent that it cannot be reused, said deposit shall be forfeited to the Village. In the event any such badge is lost, stolen or destroyed, a report of such fact shall be made to the Chief of Police and the deposit shall be forfeited to the Village. Failure to return a badge or returning it in a damaged condition shall be cause for the Chief of Police to deny a future solicitor license to the solicitor for a period of up to one (1) year and to increase the deposit for future badges to one hundred dollars (\$100.00). Failure to report the loss or destruction of a badge shall be cause to deny a future license to solicit.

7-5-7: POLICY ON SOLICITING:

It is hereby declared to be the policy of the corporate authorities of the Village that the occupant or occupants of the residences in the Village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences. If no determination is made, as is provided in Section 7-5-8 hereof, then, in the event, the solicitation is permitted.

7-5-8: RESTRICTIONS APPLICABLE TO ALL SOLICITING:

A. It shall be unlawful for any person:

1. To continue soliciting or canvassing upon any premises or residence located thereon after having been requested by the owner or occupant thereof to leave such premises or residence.

2. To solicit or canvass upon any premises or residence located thereon if such premises or residence posted against solicitation, or against certain types of solicitation, by means of a notice, prominently displayed upon which is printed the legend:

"Only Solicitors Registered in Orland Park Invited"

or

"No Solicitors Invited" (A limited supply of "No Solicitors Invited" Notices are available for Village Residents at the front desk of the Police Department for no charge.)

or

"No Canvassers"

or

"Charitable Organization Solicitors Only"

or

"Not For Profit Organization Solicitors Only"

For purposes of the preceding sentence, a dwelling house, apartment or other place of residence shall be deemed to be posted against solicitation or posted against certain types of solicitation, if there is exhibited, on or near the main entrance to the premises or on or near the main door to any residence located thereon, a sign at least three inches (3") by four inches (4") in size and with letter at least three-eighths inch (3/8") in height, which bears one of the above legends.

3. To use any plan, scheme or ruse, or to make any statements, which indicates or implies that the purpose of such person's solicitation is other than to obtain orders for or to make sales of goods or services.

4. To misrepresent the right of a buyer to rescind or cancel a sale under the provisions of applicable law.

5. To cheat, deceive, or fraudulently misrepresent, whether through himself or through an employee, while acting as a solicitor in the Village.

6. To interfere with vehicular, bicycle, or pedestrian traffic on any public right-of-way, or within one hundred feet (100') of the intersection of any public right-of-way or driveway.

B. It shall be unlawful for any person regardless of having a license under this Chapter to go upon any premises and ring the doorbell upon or near any door of a residence located thereon or rap or knock upon the 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, as herein defined, prior to nine o'clock (9:00) a.m. or after seven o'clock (7:00) p.m. Monday through Saturday or at any time on a Sunday or a State or National holiday.

C. It shall be unlawful for a person engaging in soliciting in the Village or Orland Park to hide or fail to conspicuously display his/her registration badge.

7-5-9: REVOCATION OF LICENSES:

A. The Village Manager and/or Chief of Police may revoke a solicitation license after finding that any of the following causes exists, but not before the licensee or registrant has been given at least ten (10) days' notice of hearing on the violations and revocation of the license. At said hearing the licensee and his or her attorney may present and submit evidence and witnesses in licensee's defense.

1. Violates any of the provisions of this Chapter;

2. Has made a false statement or misrepresentation in the license application;

3. Perpetrates a fraud or misrepresentation in the course of conducting solicitation activities;

4. Transfers any solicitation license to a person other than the person for whom the license was issued;

5. Uses or allows the use of a solicitation license by any person other than the person to whom the license was issued;

6. Conducts solicitation activities in an unlawful manner or in such a manner as to create a public nuisance or in such a way as to constitute a danger to the health, safety or welfare of the public; or

7. Is convicted of any felony or misdemeanor involving dishonesty, theft, fraud, false statements, a threat to public safety, or a crime involving sex offense, or offenses involving bodily harm against persons under the laws of this State or any other state or federal law of the United States subsequent to the issuance of a solicitation license.

B. In addition, in the event that the Chief of Police becomes aware that any licensee under this Chapter has been charged with any offense that would have disqualified that applicant from receiving a license, the Chief of Police shall notify the licensee of the Village's intent to

conduct a hearing to revoke the license in question.

7-5-10: PENALTIES:

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred and fifty dollars (\$750.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

7-5-11: STREET SOLICITATION:

Except as expressly permitted below, no person may stand in or on any street, roadway, highway, or intersection within the Village of Orland Park for the purpose of soliciting contributions from the occupant of any vehicle.

7-5-11-1: EXCEPTION:

A permit may be granted as outlined below, to certain charitable organizations to solicit contributions from the occupants of stopped vehicles at certain signalized intersections within the Village of Orland Park.

7-5-11-2: ELIGIBILITY:

Charitable organizations eligible to apply for solicitation permits shall be (1) registered with the Attorney General as a charitable organization as provided by the Illinois Solicitation for Charities Act, 225 ILCS 460/1 et seq.; (2) engaged in a statewide fund raising activity; and (3) liable for any injuries to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.

7-5-11-3: AGE; VEST REQUIRED:

Any person engaged in the act of solicitation shall be eighteen (18) years of age or more and shall be wearing a high visibility vest.

7-5-11-4: DATES PERMITTED:

No charitable organization may conduct more than one (1) street solicitation fundraiser of up to two (2) consecutive days in length per year. Permits may only be requested for dates between April 1 and November 15, inclusive.

7-5-11-5: LOCATIONS; HOURS:

Based on the safety of potential solicitors and the safety of motorists, and considering the safe and orderly flow of traffic, solicitations may be permitted during daylight hours, but not later than 7:00 o'clock p.m. Central Time, only and only at signalized intersections within the corporate limits of the Village.

7-5-11-6: APPLICATION:

Applications for permits for street solicitation shall be made at least thirty (30) days, but no more than one (1) year, in advance of the earliest date requested. Applications shall be submitted to the Village Clerk, upon the form designed by the Clerk therefor. Applications shall be accompanied by indications of compliance with the eligibility requirements above and a certificate of insurance in the amount of not less than \$1,000,000 per claim and \$2,000,000 per occurrence, indemnifying and holding the Village of Orland Park harmless for negligent acts of the organization's solicitors resulting in injuries to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent. The certificate of insurance covering the actual date(s) of solicitation must be provided to the Village Clerk at least thirty (30) days before the earliest requested solicitation date. Applications shall include the name, address and local telephone number of the applying organization and the name and telephone number of the local contact person. The Village Clerk may from time to time amend the application and/or permit forms within the limitations of this Section 7-5-11.

7-5-11-7: NUMBER OF SOLICITATIONS:

No more than one qualifying organization may be granted a permit to solicit contributions from the occupants of stopped vehicles on any date.

7-5-11-8: LOCATIONS TO BE INDICATED:

Applications for permits shall indicate the locations at which solicitations are proposed, and the date(s) requested. Solicitation shall not occur at any time or in any location not indicated in the permit issued.

7-5-11-9: PERMITS:

The Village Clerk shall issue a permit to organizations meeting the application requirements of this Section, subject to the limitations above. However, if two (2) or more organizations apply for permits for the same dates, the Clerk shall resolve the conflict, based upon the date and time of application. All solicitors for organizations shall carry, and show on request, a copy of their organization's permit for street solicitation.

7-5-11-10: REGULATIONS ADDED TO OTHERS:

The requirements of this Section shall be in addition to and not in place of any other charitable solicitation permit requirements of the Village of Orland Park and this Code.

7-5-11-11: PENALTY:

Any person or organization, charitable or other, violating the prohibition of this Section against street solicitation except as expressly permitted shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) for each offense. Each day of violation, and each violating solicitor at each violating location shall be considered a separate offense under this Section. Prior violations shall be considered valid cause to deny

subsequent permit applications.

7-5-12: SEVERABILITY:

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of a competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Chapter.

SECTION 3: Continuing Effect. All parts of the Village Code not amended hereby shall remain in full force and effect.

SECTION 4: Severability. If any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5: Repeal. All ordinances, resolutions, motions or parts thereof in conflict with this Ordinance shall be and the same are hereby repealed.

SECTION 6: Effectiveness. This Ordinance shall be in full force and effect upon its passage and publication in pamphlet form according to law.