

Chapter 22
PEDDLERS and SOLICITORS
(Amended Ord 2018-111)

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22.01 **DEFINITIONS**

Terms used in this Chapter are defined in Appendix A of this Code. In addition, any reference to "Mayor" shall also mean "Mayor or his/her designee."

22.02 **NUMBER OF LICENSES**

The City hereby provides for a maximum of twenty-four (24) Solicitor's permits to be issued annually within the City. A maximum of two Solicitor's permits shall be issued per calendar month with no more than one allowed per weekend within the City.

22.03 **LICENSE REQUIRED**

It is unlawful for any person to engage in business as a peddler or solicitor without first having obtained a license pursuant to the provisions of this Chapter. Possession of a peddler or solicitor license is a privilege, not a right; and the city reserves the right in its sole discretion to refuse issuance of or to rescind said license.

22.04 LICENSE APPLICATION, CONTENTS

A. Application for a peddler's or solicitor's license shall be made by each individual relating to the peddling or soliciting activities including, but not limited to, the person(s) who will be peddling or soliciting, the person(s) in charge of the peddler(s) or solicitor(s), and, if different, the business.

B. Application for a license shall be made in writing to the Mayor and shall be signed, under oath by the applicant, and shall contain the following information and statements:

1. Name and current address of applicant, and length of residence at such address
2. Previous residence address, if at current address less than two years
3. Business address, if different from residence address;
4. Date of birth and valid driver's license number and issuing state or a state identification card; social security number;
5. Physical description;
6. Name and address of the person, firm, corporation, or association whom the applicant is employed by or represents, and the length of time of such employment or representation;
7. Names and addresses of all employers, other than present employer during previous two years;
8. Description of the goods and services which are the subject of the peddling or soliciting;
9. Description of the area or areas of the City in which the peddling or soliciting activities will take place;
10. Period of time for which the license is applied;
11. The make, model and license plate number of the vehicle(s) that will be used in the course of peddling or soliciting; and
12. Date of any previous application submitted to the City for a peddler's or solicitor's license, and the disposition of such application;.

13. Whether an issued peddler's or solicitor's license has ever been revoked by the City or any other jurisdiction;
14. Whether the applicant has ever been convicted of a violation of any provision of this Chapter or any statute or ordinance of any other jurisdiction regulating peddlers or solicitors, and if so, the date and place of such conviction;
15. Whether the applicant has ever been convicted of a felony or any crime involving moral turpitude under the laws of any jurisdiction;
16. A statement that the applicant will not violate the laws of the State of Illinois or of the United States or any ordinance of the City in conducting the business for which the license is issued;
17. A sales tax number in applicant's name or his or her employer or principal, from the State of Illinois, and appropriate evidence that said tax number is current and in good standing;
18. Proof of Liability Insurance naming the City of Harvard as an additional insured in an amount of not less than Five Hundred Thousand Dollars (\$500,000).
19. Executed hold harmless agreement with the City of Harvard.
20. Such additional information as the City may deem necessary to process the application.

C. The license fee, as required in Section 22.11, shall accompany the application along with a non-returnable one-time fee of \$75.00. (Ord 2018-102,§1)

D. Application for a license pursuant to the provisions of this Chapter shall be made to the Mayor not less than 30 full business days prior to the first date on which the applicant intends to engage in peddling or soliciting in the City.

E. If requested by the Mayor, the applicant shall furnish, for the purposes of testing and analysis, a sample or samples of any goods, wares or merchandise which the applicant proposes to sell.

F. The Chief of Police shall investigate every applicant and report the results of his investigation to the Mayor.

G. The provisions of this Section 22.04 shall not apply to any not-for-profit or tax-supported corporation, association or organization, which:

1. Is either exempt from, or has filed a current registration statement with the office of the Attorney General of the State of Illinois, pursuant to the provisions of the Illinois Charitable Solicitation Act, 225 ILCS 460/1 et seq.
2. Has filed a written list of the names and addresses of its officers and directors with the Mayor not more than one year prior to any date on which it intends to engage in peddling or soliciting; and
3. Obtains the approval of the Mayor prior to engaging in any activity constituting peddling or soliciting.

22.05 INVESTIGATION OF APPLICATION, STANDARDS

1. No Certificate of Registration (permit) shall be issued to any person who has 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, within 5 years of the date of the application; nor to any person who has been convicted of a violation of this Chapter; nor to any person whose Certificate of Registration (permit) issued hereunder has previously been revoked as herein provided. (Ord 2018-102, §2)
2. Who proposes to sell any goods, wares or merchandise which in the opinion of the Mayor and Chief of Police, pose a clear and present danger to the Public Health, safety or welfare. (Ord 2018-102, §2)

22.06 ISSUANCE, DENIAL OF LICENSE

Upon completion of the investigation, the Chief of Police shall report his findings to the Mayor, together with a recommendation to issue the license or deny the application. After due consideration of the information contained in the application, related investigative reports and the Chief of Police's recommendation, the Mayor shall either approve or deny the application. Upon approval of a license the license shall be signed by the Mayor, or his designee, and attested to by the Clerk. If the application is denied, the applicant shall be notified and the license fee returned. (Ord 2018-102, §3)

22.07 FORM OF LICENSE

A license issued pursuant to the provisions of this Chapter shall be in a photo identification form issued by the Police Department and be capable of being attached to the outer

clothing of the licensee, by means of a pin, clip or other device. The license shall contain the following information:

1. Name and address of licensee;
2. Date of issuance;
3. Date after which license will be void;
4. License number; and
5. A statement that the issuance of the license does not constitute an endorsement by the City or any of its departments, officers or employees, of the purpose or person conducting the peddling or solicitation.

Any license issued pursuant to the provisions of the Chapter shall be non-transferable, and shall be worn in a conspicuous location on the outer clothing of the licensee at all times while engaged in peddling or soliciting within the City. No such license shall be issued for a period in excess of 30 consecutive days. This Section 22.07 shall not apply to any corporation, association or organization described under Section 22.04-G of this Chapter.

22.08 GENERAL REGULATIONS

1. Public health and safety. No person shall engage in solicitation within the city in such a manner that creates a danger or threat of any kind to the public health, safety and welfare.
2. No person engaged in solicitation or peddling shall use abusive, vulgar, obscene or offensive language while engaged in solicitation within the city.
3. No person engaged in solicitation or peddling shall threaten to use force, use force or otherwise coerce a person being solicited within the city.
4. Change of information. During the application process for, or during the term of, any solicitation permit, the applicant or permit holder shall promptly notify the city in writing of any change in any material information given by the applicant or permit holder in the application for such permit.

22.09 FRAUD OR MISPRESENTATION

Fraud or misrepresentation. It shall be unlawful for any peddler, solicitor, or person engaging in a charitable solicitation campaign to cheat, deceive, or fraudulently misrepresent, whether through himself or any employee, while engaging in peddling and/or solicitation. No person engaged in any form of solicitation or peddling shall employ any ruse, plan or scheme, or make any assertion, representation or statement of fact which misrepresents the purpose of the sale or solicitation. It shall be unlawful for any person engaged in solicitation to represent that the goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have or that a person has sponsorship, approval, status, qualification, affiliation or connection with an individual, organization, firm or corporation that he or she does not have. It shall be unlawful for a person engaged in peddling and/or solicitation to represent that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

22.10 REVOCATION OF LICENSE

Any license issued pursuant to the provisions of this Chapter shall be revoked by the Mayor if the licensee is convicted of a violation of this Chapter 22, or has made a false statement in the application or otherwise becomes disqualified for the issuance of the license. Immediately upon such revocation written notice shall be given by the Chief of Police to the licensee in person or by certified U.S. mail addressed to the residence set forth in the application. Immediately upon the giving of such notice the license shall become null and void. Such revocation shall be in addition to any other penalty imposed under the provisions of this Code.

22.11 LICENSE FEE

The fee for a peddler's or solicitor's license shall be \$500.00 for the first application made by any person for the first day on which the license is to be effective, and \$10.00 for each additional day thereafter. Any person, firm or corporation employing more than one person as a solicitor or peddler shall pay an additional application fee of \$25.00 for each such additional peddler or solicitor, plus a fee of \$5.00 per day for each day on which each such additional license is to be effective.

Any applicant representing a not-for-profit or tax-supported corporation, association, or organization shall be exempt from the license fee provided for in this Section.

22.12 CITY POLICY ON PEDDLING AND SOLICITING

It is the policy of the City Council that the occupant or occupants of residences in the City shall make the determination of whether peddlers or solicitors shall or shall not be invited to their respective residences. Any such determination shall be made in the manner provided in Section 22.13.

22.13 NOTICE REGULATING PEDDLING AND SOLICITING

Any person desiring to prohibit peddlers or solicitors from calling upon his residence shall give notice of such prohibition by posting a weatherproof card, approximately 3 inches by 4 inches in size, upon or as near as practicable to the main entrance door to the residence, containing the following words:

"NO PEDDLERS OR SOLICITORS INVITED"

The letters on such card shall be at least one-third inch in height. Such card posted in the manner above shall constitute notice to any peddler or solicitor of the determination of the occupant of the residence of the information contained thereon. (Ord 2018-102, §4)

22.14 UNINVITED PEDDLING OR SOLICITING

It is unlawful and shall constitute a nuisance for any person to go upon any residential premises and ring the doorbell on or near any door, 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 such occupant and engaging in peddling or soliciting, as herein defined, in disregard of a notice posted at the entrance to such residence in accordance with the provisions of Section 22.13.

22.15 TIME AND DAY RESTRICTIONS

It is unlawful and shall constitute a nuisance for any person, whether licensed pursuant to the provisions of this Chapter or not, to go upon any residence premises and ring the doorbell on or near any door, 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 such occupant and engaging in peddling or soliciting, as herein defined, prior to the hour of 9 a.m. or after 8 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday or at any time on a Sunday or on a state or national holiday.

22.16 ICE CREAM VEHICLES

A. Definitions: In addition to the definitions found in Appendix A of this Code, for purposes of this Section 22.16, "Ice Cream Vehicles" shall mean a motor vehicle or device moved by human power which is not more than 8.6 feet in height at its highest point from the ground, not more than 7 feet in width at its widest point, and not more than 16.4 feet in length at its longest point with a wheel base not to exceed 9.1 feet; a front track not to exceed 5.8 feet; and a rear track not to exceed 5.8 feet.

B. License Required: It shall be unlawful for any Ice Cream Vehicle to use the streets of the City without its owner and operator first obtaining an ice cream vendor license from the

City. The license period shall be from January 1 to December 31. The license fee shall be \$500, and no more than three licenses shall be issued by the City.

C. License Applications, Provisions: Applications for a City license shall be made in writing to the Mayor. Information required by the applicant shall include, but not be limited to:

1. Whether a previous license issued to the owner or operator by any city, state or the federal government has been revoked, and the reasons for such revocation.
2. The number of Ice Cream Vehicles to be operated under the license and the vehicle identification number of each.
3. The applicant, or licensee when renewing a license, shall furnish to the City a certificate of safety certifying that each Ice Cream Vehicle is in a safe mechanical condition and is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wipers in good condition. At any time the City may request a driver or licensee to produce evidence of compliance with this Section 22.16-C3.
4. The applicant shall furnish a list of the Ice Cream Vehicle drivers, including their names and addresses and a statement that each driver has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Section 22.16, laws of this state or the ordinances of the City.
5. The owner and each driver, including any replacement drivers who will operate Ice Cream Vehicles in the City, shall sign a waiver authorizing the City to conduct a background check on each driver. No driver shall operate any Ice Cream Vehicle within the City until the City completes the background check and it is satisfactory to the City.
6. Copies of all required McHenry County and State of Illinois health department permits shall accompany the application.
7. Any license shall be subject to revocation by the Mayor and City Council upon violation of any ordinance or law of the City or state of Illinois relating to the public health, safety and welfare of the citizens of the City.

D. Drivers: While on duty, it shall be unlawful for any driver of an Ice Cream Vehicle to consume any intoxicating liquor or alcoholic beverage, to use any profane or obscene language, to shout or call to prospective customers or to disturb the peace in any manner. It shall be the duty of each driver to obey all City and state traffic rules.

E. Ice Cream Vehicles:

1. No Ice Cream Vehicle shall be operated in the City unless it bears a current state license. If at any time an Ice Cream Vehicle is not in a safe mechanical condition it shall not be used in the City until repaired and a certificate of safety issued pursuant to Section 22.16-C3 herein.
2. Ice Cream Vehicles shall not be equipped with electronic sound equipment. It shall be unlawful for any Ice Cream Vehicle to be equipped with mechanical sound equipment except equipment operated in such a fashion that it emits an intermittent and not a continuous sound. In no event shall the sound emitted exceed the levels in the City's pollution control law. At any time intermittent sound equipment is operational, the speed of the Ice Cream Vehicle shall not exceed 15 miles per hour.
3. Each Ice Cream Vehicle shall have, on each side in letters readable from a distance of 50 feet, the name of the licensee. Each Ice Cream Vehicle shall also have a driver's identification card, including a picture of the driver, prominently displayed so it is clearly visible to customers. If more than one Ice Cream Vehicle is operated by a licensee, each shall be designated by a different number affixed to each side, in numerals readable from a distance of 50 feet.

F. Hours of Operation: Ice cream products may be sold from a licensed Ice Cream Vehicle between the hours of 12 noon and 8 p.m. or dusk, whichever is earlier. All sales must be conducted from licensed Ice Cream Vehicles that have come to a full stop with sound equipment turned off at the curb line of the street upon which the sales are being made.

G. Prohibited Streets: Ice cream sales shall be prohibited upon the following streets within the City: Ayer Street, Church Street, North Garfield Road, South Garfield Road, Grant Street from Illinois Route 173 to Garfield Road, Illinois Route 14, Illinois Route 173, East McKinley Street, West McKinley Street, Northfield Avenue and Marengo Road.

H. Insurance: No Ice Cream Vehicle shall be operated unless it is covered by a bond or general liability insurance policy with the City added as an additional insured party and minimum limits of \$1,000,000 individually and in the aggregate. The licensee shall furnish a copy of such bond or insurance policy prior to the issuance of a license.

22.17 SOLICITATION BY CHARITABLE ORGANIZATIONS
(Added Ord. 2012-101)

A. General

1. All permits shall be issued by the Mayor. (Ord 2018-102, §5)

2. All persons soliciting on behalf of an organization shall be at least 16 years of age.
3. For purposes of this Section, six solicitation permits shall be issued City wide during any one calendar year.
4. Location of solicitation of funds shall only be permitted at the intersection of Rt. 14 and Rt. 173 North and West Diggins Street. (five points)
5. Permits shall be limited to consecutive Fridays and Saturdays.
6. Hours for solicitation of funds shall be from 9:00 a.m. to 6:00 p.m.
7. All solicitors shall be unpaid.
8. The soliciting agency must have been engaged in charitable purposes for not less than one year prior to filing of its application with the City.

B. Application for permit

1. Application shall be made in letter form and shall contain the following information.
 - a. Proof that the organization is registered with the Illinois Attorney General as a charitable organization.
 - b. Proof that the organization is a tax exempt charitable organization as determined by the United States Internal Revenue Service.
 - c. Proof that the organization is located in the City or affiliated with a local chapter or group.
 - d. Date that the organization was chartered.
 - e. Proof of Insurance \$1,000,000 per claim and \$2,000,000 per occurrence with the City of Harvard being additional insured, along with an indemnification of the City of Harvard.

C. Regulations

1. Every person who solicits shall wear high visibility vests.
2. Every person who solicits funds on behalf of an organization shall wear a uniform or article of clothing which informs the general public of the identity of the organization, or shall wear or carry such other emblem, button, sign or insignia that fully and clearly informs the public of the identity of the organization.

3. No person soliciting funds on behalf of an organization shall willfully or unnecessarily hinder, obstruct, or delay or attempt to delay, obstruct or hinder any person from lawfully driving traveling along or upon any street or thoroughfare within the City.
4. Solicitation of funds shall only take place when traffic is at a full stop, and when the traffic signal is red.
5. When in the opinion of the Chief of Police or his designee that solicitation constitutes a clear traffic hazard or endangerment to the general public, The Chief of Police or his designee shall have the authority to prohibit solicitation for an indefinite time period.

D. Violation: In the event of any violation of the provisions of this Section the organization shall be disqualified for a permit to solicit for the subsequent calendar year.

22.18 VIOLATION and PENALTY

Any person, firm, or corporation violating any provision of this Chapter shall be fined not less than \$400.00 for each offense. Each day on which a violation occurs or continues to occur shall be deemed a separate offense.