

VILLAGE OF MAPLE PARK

ORDINANCE NO. 2016-15

**AN ORDINANCE AMENDING TITLE 4 “BUSINESS AND
LICENSE REGULATIONS,” CHAPTER 4 “PEDDLERS,
SOLICITORS, AND ITINERANT MERCHANTS”**

**ADOPTED BY
THE BOARD OF TRUSTEES
OF THE
VILLAGE OF MAPLE PARK**

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AN ORDINANCE AMENDING TITLE 4 "BUSINESS AND LICENSE REGULATIONS," CHAPTER 4 "PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS"

WHEREAS, it is the intent of the Board of Trustees to protect and preserve the public health, safety, welfare and morals of the citizens of the Village of Maple Park to the full extent allow by law; and

WHEREAS, the Village of Maple Park has previously adopted various regulations governing the licensing and the activities of solicitors and peddlers in the Village; and

WHEREAS, the Corporate Authorities deem it necessary and advisable to modify said regulations at this time.

WHEREAS, the President and Board of Trustees have considered the Proposed Amendments and the recommendation of the Infrastructure Committee, and have determined that adoption of the Proposed Amendments, as set forth in this Ordinance, will serve and be in the best interest of the Village and its residents;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Maple Park, Kane and DeKalb Counties, Illinois, as follows:

RECITALS.

SECTION 1: The Village of Maple Park Code, as amended, shall be and is hereby amended to modify the regulations governing the licensing and the activities of peddlers in the Village, in words and figures as follows:

Chapter 4 PEDDLERS, SOLICITORS, ITINERANT MERCHANTS

4-4-1 DEFINITIONS:

For the purposes of this chapter, the following words, as used herein, shall be construed to have the meanings herein ascribed thereto:

ITINERANT VENDOR: Any person who transports tangible personal property for retail sale within the village who does not maintain in the state an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted; provided, however, this term shall not include 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. It shall be prima facie evidence that a person is an "itinerant vendor" 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 (6) months, the property from which business is conducted.

PEDDLING: Selling or offering for sale, barter or exchange at retail any goods, wares, merchandise or services of any kind whatsoever by traveling from place to place along the streets of the village or from residence to residence therein, but shall not include solicitation or canvassing for future delivery. "Peddling" may, in some instances, include

the activities of an "itinerant vendor" or "transient merchant", as defined herein. If a peddler is also an "itinerant vendor" or "transient merchant", as defined herein, then those provisions shall also be applicable. To the extent that the provisions of this chapter relative to "peddling" are inconsistent with those relating to "itinerant vendors" and/or "transient merchants", the more restrictive provisions shall apply.

REGISTERED SOLICITOR AND REGISTERED PEDDLER: Means and includes any person who has obtained a valid Permit of registration as herein provided, where such Permit is in the possession of, and on the person of, the one soliciting or peddling during all soliciting or peddling.

REGISTERED TRANSIENT MERCHANT AND REGISTERED ITINERANT VENDOR: Any person who is a "transient merchant" or "itinerant vendor" as defined herein and who has obtained and has in his possession a valid Permit.

RESIDENCE: Means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

SOLICITING: Means and includes any one or more of the following activities:

- A.** Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, insurance, or services of any kind, character or description whatever, for any kind of consideration whatever, all for future delivery; provided, however, that seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication shall not be deemed to be soliciting, and such activities are not regulated by this chapter.
- B.** Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project.

TRANSIENT MERCHANT: Any person who is engaged temporarily in the retail sale of goods, wares or merchandise in the village and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure of any kind, or vacant lot; provided, however, this term does not include any person selling goods, wares or merchandise which are raised, produced or manufactured by him, to any person selling vegetables, fruit or perishable farm products at an established village market, to any person operating a store or refreshment stand at a resort, or to any person operating a stand or booth on or adjacent to property owned by him or upon which he resides. It shall be prima facie evidence that a person is a "transient merchant" 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 (6) months, the property from which business is conducted.

4-4-2 PERMIT:

- A.** Permit Required: A written application for a Permit as herein provided shall be secured by every person desiring to engage in "soliciting" or "peddling", as herein defined, from persons in residences within the village and, in addition, by every person desiring to engage in soliciting from any business, office or manufacturing facility within the village for gifts or contributions of money, clothing or other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

B. Application For Permit:

1. **Application Form; Oath:** Application for a Permit shall be made upon a form provided by and filed with the village clerk. The applicant shall state, under oath, such information requested on the application form as is required by the provisions of this chapter and such other relevant information as determined by the village clerk.
2. **Fingerprints and Photographs:** The village clerk shall require every applicant to submit to fingerprinting in connection with the application for Permit, and the applicant will submit to identification photographing conducted by the village clerk, and such identification photograph shall be affixed to the Permit.

Criminal History: Applicant shall provide all necessary information, including releases or authorizations if applicable, to the Chief of Police to conduct a criminal history background check in accordance with this Chapter. Applicant shall be responsible for payment of any fees associated with such criminal history background check. The Chief of Police may transmit such information identified in the criminal history background check, as may be permissible, to the Village President or designee prior to approval of permit.

3. **Prohibited Registrants:** No Permit shall be issued: 1) to anyone seeking to solicit for a charitable or nonprofit association, organization, corporation or project unless such charity or nonprofit group has been previously approved in advance by the village board of trustees which may waive requirement of individual registration and fees if a list of names and addresses of individuals to be involved are supplied to the village clerk; or 2) 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 five (5) years of the date of the application; or 3) to any person who has been charged or convicted regarding a violent act against person or property, including but not limited to the following: Disorderly Conduct, Harassment, Assault, Battery, Domestic Assault, Domestic Battery, Stalking, Violation of order of protection, or Child endangerment.

C. Fees:

1. **Fees Established:** A fee shall be paid at the time of filing the application, as follows:

<u>Permit Requested</u>	<u>Fee</u>
One day	\$10.00
More than one day and not more than one week	\$50.00
More than one week	\$100.00

2. **Waiver of Fees:** The village president may waive such fee in his or her discretion, but all fee waivers shall be reported to the village board.

D. Issuance Or Denial Of Permit; Contents:

1. Denial: The village president, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Permit as herein required. Endorsement shall be made by the village president upon the application of the denial of the application.
2. Issuance: When the applicant is found to be fully qualified, the Permit shall be issued by the village president or his or her designee.
3. Time Limit For Action: All applications shall be acted upon by the village president within seven (7) days after receipt of a completed application.
4. Contents: Each Permit shall state the expiration date thereof.

E. Revocation of Permit: Any Permit issued hereunder may be revoked by the village president if the holder of the Permit is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a Permit under the terms of this chapter. Immediately upon such revocation, written notice thereof shall be given by the village president to the holder of the Permit in person or by certified U.S. mail addressed to his or her address set forth in the application. Immediately upon the giving of such notice of revocation, the Permit shall become null and void.

F. Records Kept: The village clerk 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 of all Permits of registration issued under the provisions of this chapter, and of the denial of applications. Applications for Permits shall be numbered in consecutive order as filed, and every Permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued. (2004 Code)

4-4-3 NOTICE REGULATING PEDDLERS AND SOLICITORS:

A. Notice Requirements: The owner or occupant of any residence who desires to forbid trespasses by solicitors or peddlers, or unlicensed solicitors and peddlers, may attach or exhibit upon or near the main front door, and the main rear or side door (if any and if to be protected), a card or plaque stating such of the following as may be appropriate, in letters at least one-third inch ($\frac{1}{3}$ ") in height:

SOLICITORS AND PEDDLERS NOT INVITED

or

*SOLICITORS AND PEDDLERS NOT INVITED UNLESS REGISTERED WITH
THE VILLAGE*

- B. Nonexclusive Notice Provided By Village:** For the convenience of residents of the village and for purposes of uniformity, cards or plaques containing the foregoing legend shall be made available by the village. The form of card or plaque provided for in this section shall not be deemed to be an exclusive form of notice. Such card or plaque so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

4-4-4 DUTIES OF SOLICITORS AND PEDDLERS:

- A. Entry Prohibited Upon Notice:** It shall be unlawful for any person to enter upon any property of another in the village after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or to remain upon the property of another after receiving notice from the owner or occupant to depart.
- B. Notice To Leave Premises:** A person shall be deemed to have received notice from the owner or occupant within the meaning of this chapter if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted at the main entrance to said property or the forbidden part thereof.
- C. Depart Premises Upon Request:** Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

4-4-5 UNINVITED SOLICITING OR PEDDLING PROHIBITED:

- A. Uninvited Soliciting or Peddling Prohibited:** Any person soliciting or peddling who is forbidden entry by notice given in compliance with this chapter shall be deemed guilty of remaining on the property after receiving notice to depart if he shall remain on the property, or if he shall ring the doorbell or knock or create any sound calculated to attract the attention of the occupant.
- B. Exemptions:** Notices exhibited pursuant to this chapter shall not be deemed applicable to and shall not prevent access to residential property by a solicitor or peddler who has received prior invitation, written or oral, from the owner or occupant thereof.

4-4-6 TIME LIMIT ON SOLICITING AND PEDDLING:

It is hereby declared to be 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" as herein defined prior to nine o'clock (9:00) A.M. or after seven thirty (7:30) P.M.

4-4-7 VIOLATION; PENALTIES:

- A. Violation; Penalty:** Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating any provision of this chapter or of failing to comply with any requirement hereof, or of violating any permit, any approval, or any directive issued under the provisions of this chapter, shall be punishable as provided in section 1-4-1 of this code, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. Reimbursement Of Costs:** Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating a provision of this chapter or of failing to comply with any requirement hereof, or of violating any Permit, any approval, or any directive issued under the provisions of this chapter, shall, in addition to the fines provided, be obligated to reimburse the village for its attorney fees, court costs, court reporter costs, and expert witness fees, and all other out of pocket costs incurred by the village in the prosecution of the said violation or violations.
- C. Injunctive Relief:** The village may make application to the circuit court for an injunction requiring conformance with this chapter or make such other order as the court deems necessary to secure compliance with this chapter.

4-4-8 CONSTITUTIONAL RIGHTS:

Nothing in this chapter shall be interpreted or enforced to deprive any person of any rights guaranteed under the constitutions of the state or the United States.

SECTION 2: SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 3: EFFECTIVE DATE. The provisions of this Ordinance will be in full force and effect upon its passage, approval and publication, in accordance with law.

PASSED this 4th day of October, 2016, pursuant to roll call vote as follows:

AYES: Dalton, Higgins, Harris, Borg, Dries, Goucher

NAYS: None

ABSENT: None

APPROVED this 5th day of October, 2016.



Kathleen Curtis

Kathleen Curtis, Village President

ATTEST:

Elizabeth E. Peerboom

Elizabeth Peerboom, Village Clerk