

CHAPTER 173 PEDDLING AND SOLICITING

[HISTORY: Adopted by the Board of Trustees of the Village of Central Square 3-7-1983 by L.L. No. 1-1983 as Ch. 17 of the 1983 Code. Amendments noted where applicable.]

§ 173-1 Short title.

This chapter shall be known and may be cited as the "Village of Central Square Peddlers and Solicitors Law."

§ 173-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HAWKER and PEDDLER

Includes, except as hereinafter expressly provided, any person, either principal or agent, who from any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise, books, magazines, periodicals or any other item or items of value, except milk, newspapers and food distributed on regular customer routes.

SOLICITOR

Includes any person who goes from place to place or house to house or by telephone or stands in any street or public place taking or offering to take orders for goods, wares or merchandise, books, magazines, periodicals or any other item or items of value (except newspapers, dairy products or milk) or for services to be performed in the future or for making, manufacturing, or repairing any article or thing whatsoever for future delivery at the home or residence of any person who has been solicited prior thereto by telephone or has responded to any type of advertising media requiring an appointment or consultation or sales presentation in the home or place of residence of such person.

§ 173-3 Exemptions.

A.

Generally. Nothing in this chapter shall be held to apply to:

(1)

Any sales conducted pursuant to statute or by order of any court.

(2)

Any person selling personal property at wholesale to dealers in such articles.

(3)

Persons under the age of 18 years.

(4)

Peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.

B.

Exempt organizations. Nonprofit organizations and persons working for such organizations shall also be exempt. However, such organizations shall register annually with the Village Clerk in the event they plan to engage in vending, hawking, peddling or soliciting and shall indicate the type of activities to be undertaken and the time when they will be performed. It shall be the responsibility of such organizations to furnish identification for their representatives which must be exhibited upon demand.

C.

Interstate commerce.

(1)

This chapter shall not apply so as unlawfully to interfere with interstate commerce, and to that end all persons claiming to be engaged in interstate commerce shall apply to the licensing officer for a certificate of compliance, using the form of application described in § 173-5A. The applicant shall also submit to the licensing officer satisfactory evidence that he or she is engaged in interstate commerce.

(2)

When the applicant shall have established to the satisfaction of the licensing officer that he or she is engaged in interstate commerce, the licensing officer shall issue to him or her, without charge, a certificate of compliance stating, among other things, that such person has complied with the requirements of this Subsection C and has satisfactorily established that he or she is engaged in interstate commerce. Such certificate shall be carried with the person exercising it and shall be exhibited upon demand. Each such certificate shall be invalid after one year from its date of issue. The securing of any such certificate by fraud or misrepresentation by any person not in fact engaged in interstate commerce shall constitute a violation of this chapter.

§ 173-4 License required.

It shall be unlawful for any person within the limits of the Village to act as a hawker, peddler or solicitor as herein defined or assist the same without first having obtained and paid for and having in force and effect a license therefor or having in force and effect a certificate of compliance.

§ 173-5 Application for license.

A.

Any person desiring to procure a license as herein provided shall file with the Village Clerk a written application upon a form furnished by the Village Clerk and shall file at the same time satisfactory proof of good character. Such application shall give:

(1)

The number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired.

(2)

The kind of goods, wares and merchandise he or she desires to sell or the kind of service he or she desires to perform.

(3)

The method of distribution.

(4)

The name, address and age of the applicant.

(5)

Whether or not the applicant has been convicted of a misdemeanor or felony and, if so, the date of conviction, nature of offense, penalty imposed, and name and address of the court.

(6)

The name and address of the person, firm or corporation he or she represents.

(7)

The length of time the applicant desires the license.

(8)

Such other information as may be required by the licensing officer to substantiate the above items.

B.

If applicable, such application shall be accompanied by a certificate from the Director of Weights and Measures of the county certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

§ 173-6 Cash deposit or bond required.

An application for a license as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall also be accompanied by a cash deposit of \$1,000 or a surety company bond of \$1,000 or other bond secured by sufficient collateral, said bond to be approved by the Village Attorney as to form and surety, conditioned for making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order or, failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any licensed solicitor shall have the right by action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect and, in case of a cash deposit, such deposit shall be retained by the Village for a period of 90 days after the expiration of any such license, unless sooner released by the Board of Trustees.

§ 173-7 Issuance of license.

A.

Licensing officer to issue or deny. Upon the filing of the application, bond and certificate as provided in the preceding section, and payment of the required fee, the licensing officer shall, upon his or her approval of such application, issue to the applicant a license as provided in § 173-4. A license may be refused if the

applicant shall have been convicted of a misdemeanor or felony which in the judgment of the licensing officer renders the applicant unfit or undesirable to carry on the trade or occupation for which the license is sought. The licensing officer may also refuse a license to any person who in his or her judgment shall be an undesirable person or incapable of properly conducting the trade or business for which the license is sought.

B.

Appeal to Board of Trustees. Any applicant who has been refused a license by the licensing officer may apply to the Board of Trustees therefor, and the same may be granted or refused by the Board of Trustees.

§ 173-8 License not assignable.

A license shall not be assignable. Any holder of any license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall each be guilty of a violation.

§ 173-9 Loss of license.

Whenever a license shall be lost or destroyed on the part of the holder or his or her agent or employee, a duplicate in lieu thereof, under the original application and bond, may be issued by the licensing officer upon the filing with him or her by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 173-10 Contents and form of license.

All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued, and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of his or her license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee.

§ 173-11 Term of license.

Such license shall be for such term as requested by the applicant but shall expire not later than the first day of January next succeeding.

§ 173-12 Exhibition of license.

Every licensee, while exercising his or her license, shall carry the license with him or her and shall exhibit the same upon demand.

§ 173-13 License fee.

The license fee for each person licensed as a hawker, peddler or solicitor for a period of one month or less shall be \$25, for a period of six months or less shall be \$50 and for a period in excess of six months but not for more than one year shall be \$100.

§ 173-14 Revocation of license.

A license issued pursuant to this chapter may be revoked after a public hearing held by the licensing officer after due notice to the licensee. All constitutional safeguards shall be afforded the licensee at such hearing.

§ 173-15 Prohibited acts.

A.

It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after the hour of 7:00 p.m. of any day except upon the invitation of the householder or occupant.

B.

It shall be unlawful for any peddler or solicitor in plying his or her trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents" or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

C.

No peddler or solicitor shall peddle, vend, or sell his or her goods or wares within 200 feet of any place occupied exclusively as a public or private school or for school purposes, nor shall he or she permit his or her cart, wagon or vehicle to stand on any public highway within said distance of such school property.

D.

No peddler or solicitor shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall by any trick or device or by any false representation obtain or attempt to obtain admission to the house or garage of any person or corporation in the Village.

E.

No peddler or solicitor shall blow a horn, ring a bell, or use any other noisy device to attract public attention to his or her wares or shout or cry out his or her wares.

F.

It shall be unlawful to create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

G.

No peddler or solicitor shall represent or state or otherwise indicate that he or she is not intending to sell or otherwise enter into a contract with any person in the household.

H.

Any contract or sale made in violation of Subsection D or G shall be null and void and of no effect as to the person solicited, and any merchandise delivered shall be forfeited and any sums paid by the person so solicited shall become immediately due and payable jointly and severally by the peddler or solicitor and his or her principal.

§ 173-16 Orders.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing made in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit is paid to the solicitor.

§ 173-17 Records.

It shall be the duty of the Village Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the fee paid and the date of revocation of all licenses revoked.

§ 173-18 Penalties for offenses.

A violation of any provision of this chapter is hereby declared to be a violation and shall be punishable by a fine not exceeding \$250 or imprisonment of not more than 15 days, or both.