

CHAPTER 1
CANVASSERS, PEDDLERS, SOLICITORS,
TRANSIENT MERCHANTS AND ITINERANT VENDORS

Section

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§3-1-1: DEFINITIONS:

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

CANVASSERS: Persons conducting any manner of door to door advocacy, including, but not limited to, those conducting any type of surveys and/or the distribution of any literature, handbills or pamphlets, but excluding those present as a result of a prior invitation from an owner or occupant of the premises, any persons employed and on official business for the United States census bureau, and also excluding those rendering assistance or providing information of a bona fide emergency nature.

CERTIFICATE OF REGISTRATION: A certification of registration issued by the Village of Tower Lakes.

ITINERANT VENDOR: Any person who transports products or tangible personal property for sale within this Village who does not maintain in the Village an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted or uses a vehicle for the vending and sale of products or tangible personal property for sale, 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.

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. "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 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 certificate of registration as hereinafter provided.

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.

SOLICITING: Shall mean and include any one or more of the following activities:

- (A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, insurance, services of any kind, character or description whatever, for any kind of consideration whatever, all for future delivery;
- (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; or
- (C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication shall be deemed "soliciting".

TRANSIENT MERCHANT: Any person who is engaged temporarily in the retail sale of goods, wares or merchandise in this 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.

VEHICLE: Motor vehicles or devices moved by human power.

VILLAGE: The Village of Tower Lakes, Illinois.

(Ord. 2002-013, 7-15-2002)

§3-1-2: CERTIFICATE OF REGISTRATION REQUIRED; RESTRICTIONS:

- (A) It shall be unlawful for any person to engage in business as a transient merchant, itinerant vendor, or to use a vehicle for the vending and sale of products upon the Village streets, without first having obtained a certificate of registration as hereinafter provided, however, any person under sixteen (16) years of age, or any person under eighteen (18) years of age soliciting on behalf of an organization affiliated with a public entity or educational institution serving the Village shall not be required to obtain a certification of registration.
- (B) Selling by a registered transient merchant or itinerant vendor is prohibited after nine o'clock (9:00) P.M. and before nine o'clock (9:00) A.M.
- (C) A certificate of registration as hereinafter provided shall be secured by every person desiring to engage in retail sales within this Village as a "transient merchant" or "itinerant vendor", as defined herein.
- (D) Each person shall at all times while acting as an itinerant vendor or transient merchant in the Village, carry upon his person, or vehicle, the certificate of registration and the same shall be

exhibited by such registrant whenever he is requested to do so by any police officer or by any person solicited.

(Ord. 2002-013, 7-15-2002)

§3-1-3: APPLICATION FOR CERTIFICATE OF REGISTRATION:

- (A) Application for a Certificate of Registration shall be made upon a form provided by the Village Clerk and filed with such Village Clerk, who shall forward such application to the Chief of Police for his or her review pursuant to this Chapter. The applicant shall truthfully state in full the following information requested on the application:
1. Name and present residence address; social security number; driver's license number, if any;
 2. Physical description of the applicant, including height, weight, color of hair, color of eyes, and date of birth;
 3. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; immediate supervisor of applicant and phone number;
 4. Location at which applicant intends to do business; nature of the business; a copy of applicant's current certificate of registration under the retailers' occupation tax act;
 5. The nature of the products or services he is seeking to sell or lease;
 6. The names and addresses of the organization which he is representing;
 7. The duration or period of time that he intends to engage in sales as a transient merchant or itinerant vendor;
 8. Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in;
 9. A list of all licenses to conduct business as "transient merchant" or "itinerant vendor" received or applied for within this state for preceding twelve (12) months;
 10. Whether or not the applicant has ever been convicted of a violation of any of the provisions of this Chapter or the ordinances of any Illinois municipality regulating soliciting or peddling;
 11. Whether or not the applicant has ever been convicted of a felony under the laws of the State of Illinois or any other state or federal law of the United States.
- (B) All statements made by the applicant upon the application or in connection therewith shall be under oath.
- (C) In connection with the application for a certificate, the applicant and each agent, employee and/or representative thereof who will be present within the Village shall submit to identification photographing by the Village of Tower Lakes Police Department.

- (D) The Chief of Police or his designee shall endeavor to obtain the personal criminal history of each applicant for a fee of ten dollars (\$10.00) per person covered by the application to defray the cost of obtaining such history, which fee shall be paid to the Village Clerk by the applicant at the time the application is submitted.
- (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 by the Village President together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this Chapter, and of the denial of applications.
- (F) Upon the filing of a complete and accurate application and the receipt of the applicant's personal criminal history, as provided herein, a certificate of registration shall be issued by the Chief of Police or his other designee within thirty (30) days of application, except that no certificate shall be issued 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; nor to any person who has committed a violation of any ordinance of the Village nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.
- (G) Any certificate of registration issued pursuant to this Chapter shall not be effective for a period of longer than thirty (30) days, but such a certificate of registration for a transient merchant or itinerant vendor shall not be renewed for in excess of five (5) 30-day periods in any calendar year.
- (H) Nothing in this Chapter shall be interpreted or enforced to deprive any person of any rights guaranteed under the constitutions of the state of Illinois or the United States.

(Ord. 2002-013, 7-15-2002)

§3-1-4: ITINERANT VENDORS AND TRANSIENT MERCHANTS:

The applicant for an itinerant vendor's or transient merchant's certificate of registration shall pay a fee upon application for a certificate of registration of one hundred dollars (\$100.00) for each vehicle utilized or to be utilized in the Village. The Village President or his or her designee shall determine, based upon the application submitted, whether the applicant under this Chapter is a transient merchant or itinerant vendor. It shall be prima facie evidence that a person is a transient merchant or 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. A certificate of registration shall be issued to any qualified applicant upon the posting of the appropriate bond or cash deposit as follows:

- (A) The applicant for a transient merchant's or itinerant vendor's certificate of registration shall file with the Tower Lakes Police Department a surety bond or shall make a cash deposit. The amount of the bond or deposit shall be equal to fifty percent (50%) of the wholesale value of the merchandise that the applicant intends to offer for sale; however, the amount of the bond or deposit shall not be less than one thousand dollars (\$1,000.00) nor more than ten thousand dollars (\$10,000.00).
- (B) The Tower Lakes Police Department shall transfer said deposit or bond to the Attorney General of this State within fourteen (14) days after the applicant ceases to do business in its jurisdiction, and the Attorney General shall hold such deposit or bond for two (2) years for the benefit of any person who suffers loss or damage as a result of the purchase of merchandise from said person receiving a

certificate of registration under this Chapter or as the result of the negligent or intentionally tortious act of the person receiving a certificate of registration under this Section. The Attorney General shall pay any portion of the bond or deposit to any person in accordance with the order of a court without making an independent finding as to the amount of the bond or deposit that is payable to that person. Any balance of said deposit held by the Attorney General two (2) years after the expiration of a license of a person under this Section shall be refunded to the person.

- (C) If any person makes retail sales as a transient merchant or itinerant vendor without having obtained a certificate of registration under this Section, the Police Department serving the Village may hold the inventory, truck or other personal property of the person until he obtains a certificate of registration to conduct business as a transient merchant or itinerant vendor. If the property has been held by the Police Department serving the Village for more than sixty (60) days and the person whose property is being held has not obtained a certificate of registration under this Section, the Village may petition the circuit court for an order for the sale of the property being held. If the court finds that the person whose property is held has not obtained a certificate of registration under this Section, the court may order the Village to sell the property. Proceeds of the sale of the property, less reimbursement to the Village of the reasonable expenses of storage and sale of the property, shall become the property of the Village and shall be deposited with the Village Treasurer.
- (D) It is a violation of this Section for any person, firm or corporation, either as principal or agent, to conduct business as a transient merchant or itinerant vendor in the Village without first:
 - 1. Complying with the requirements of the Retailers' Occupation Tax Act; and
 - 2. Obtaining a certificate of registration and posting such bond or other approved security as required under this Section.

(Ord. 2004-07, 9-20-2004)

§3-1-5: REVOCATION OF CERTIFICATE:

- (A) Any certificate of registration issued hereunder shall be revoked by the Village President or the Chief of Police if the holder of the certificate has committed 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 certificate of registration under the terms of this Chapter.
- (B) Immediately upon such revocation, written notice thereof shall be given by the Village President or the Chief of Police to the holder of the certificate in person or by certified U.S. mail addressed to his or her residence address set forth in the application.
- (C) Immediately upon the giving of such notice the certificate of registration shall become null and void.

(Ord. 2002-013, 7-15-2002)

§3-1-6: TRESPASSING BY CANVASSERS, SOLICITORS OR PEDDLERS AND OTHERS:

- (A) 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) A person shall be deemed to have received notice from the owner or occupant within the meaning of this Section 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) The owner or occupant of any residence who desires to forbid trespasses by canvassers, solicitors or 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 so 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:

Canvassers, Solicitors and Peddlers Forbidden

- (D) The form of card provided for in this Section shall not be deemed to be an exclusive form of notice.

(Ord. 2002-013, 7-15-2002)

§3-1-7: FAILURE TO DEPART:

- (A) Any person canvassing, soliciting or peddling who is forbidden entry by notice given in compliance with this Chapter who rings the doorbell or knocks or creates any sound calculated to attract the attention of the occupant of such residence shall be guilty of a violation of this Section.
- (B) Notices exhibited pursuant to this Chapter shall not be deemed applicable to and shall not prevent access to residential property by a canvasser, solicitor or peddler who has received prior invitation, written or oral, from the owner or occupant thereof.

(Ord. 2002-013, 7-15-2002)

§3-1-8: PENALTIES:

- (A) 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 thereof, or of violating any permit, any approval, or any directive issued under the provisions of this Chapter shall be guilty of a petty offense, punishable by a fine as specified from time to time in Section 1-4-1 of this Code for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues or each solicitation of a separate person.
- (B) The Village may make application to the circuit court for an injunction requiring conformance with this Chapter or such other order as the court deems necessary to secure compliance with this Chapter.

(Ord. 2002-013, 7-15-2002)