

Chapter 171, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Board of Trustees of the Village of Horseheads: Art. I, 8-3-1965 as Chapter 21 of the 1965 Code; Art. II, 8-3-1965 as Chapter 34 of the 1965 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Auctions and auctioneers -- See Ch. 85.

ARTICLE I, Peddling [Adopted 8-3-1965 as Chapter 21 of the 1965 Code]

§ 171-1. Definitions.

Terms used in this Article have the following meanings.

ESTABLISHED PLACE OF BUSINESS -- A building or store in which the person deals in the goods, wares or merchandise for which he or she solicits orders from customers and delivers the same during regular business hours.

HAWKER or PEDDLER -- Except as hereinafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place to place on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except newspapers, periodicals and dairy products.

SOLICITOR -- Any person who, by going from place to place or house to house, or who, in any street or public place, takes or offers to take orders for goods, wares or merchandise, except orders for newspapers or for services to be performed in the future.

§ 171-2. Exemptions. [Amended 7-15-1970]

The license requirements of this Article shall not apply to persons selling personal property for resale to dealers in such articles; to merchants having an established place of business within the village or their employees who obtain orders from their customers and deliver the same; to the peddling of meats, fish, fruits and farm produce by farmers and persons who produce such commodities; to hawking or peddling by an honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military services of the United

States; or to the holder of a license granted pursuant to § 32 of the General Business Law lawfully acting thereunder. This Article shall not apply so as to unlawfully interfere with interstate commerce. This Article shall not apply to persons eighteen (18) years of age or under who shall act as a hawker, peddler or solicitor on behalf of a charitable, religious, educational or athletic nonprofit organization.

§ 171-3. License required; application; expiration.

No person shall act as a hawker, peddler or solicitor within the village without a license therefor. Such license may be granted by the Board of Trustees after written application therefor filed with the Village Clerk specifying the name, age and address of the applicant, the name and address of the person he or she represents, the length of time the applicant desires the license, the kind of goods, wares and merchandise he or she desires to sell, the method of distribution and such other information and proof, including satisfactory proof of good character, as may be required by the Board of Trustees. The application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved. The license shall expire on December 31 following the date of issuance thereof. The license shall be signed by the Village Clerk.

§ 171-4. License fees. EN(1)

The license fee for peddling, hawking or soliciting shall be as set by resolution of the Board of Trustees from time to time. EN(2). The license shall not be in effect until the fee has been paid to the Village Clerk and his or her receipt endorsed thereon. Such license shall give the licensee the right to use only one (1) vehicle in carrying on the business for which he or she is licensed. For each additional vehicle so used by him or her, an additional fee shall be paid, in which event the license shall state the number of vehicles permitted to be used. A licensee may employ one (1) unlicensed person to assist in selling and delivering his or her wares, but such unlicensed person shall so act only while accompanying a licensed peddler, hawker or solicitor. If the licensee is a corporation, the corporation may employ two (2) unlicensed persons to assist in selling and delivering its wares, and such corporation shall pay an additional fee for each additional person so employed.

§ 171-5. Exhibition of license.

Every licensee, as well as every person holding a license under the provisions of § 32 of the General Business Law, shall, while engaged in hawking, peddling or soliciting within the village, carry his or her license upon his or her person and shall produce and exhibit the same upon demand of any officer or citizen. The refusal of any such person to produce a license upon

demand shall be presumptive evidence that he or she is hawking, peddling or soliciting without a license.

§ 171-6. Regulations.

A hawker, peddler or solicitor shall not:

- A. Misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Fail to keep the vehicle and receptacles used by him or her in a clean and sanitary condition and the foodstuffs and edibles offered for sale well-covered and protected from dirt, dust and insects.
- C. Use any obnoxiously noisy device to attract public attention to his or her wares or shout or cry out his or her wares.
- D. Stand or permit the vehicle used by him or her to stand in any public place or street for more than ten (10) minutes or in front of any premises for any time if the owner of or lessee of the ground floor thereof objects.
- E. Sell any confectionary or ice cream within two hundred fifty (250) feet of any public or private school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Permit any vehicles used by him to stop or remain on any crosswalk or driveway.
- G. 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.
- H. Litter or strew public or private property with discarded containers, refuse or debris of any kind.
- I. Peddle, hawk or solicit on Sunday nor on weekdays during the period from one-half (1/2) hour after sunset to one-half (1/2) hour after sunrise.

§ 171-7. Penalties for offenses. EN(3)

The violation of or the failure to comply with any of the provisions of this Article shall constitute a violation of the Village Code and shall be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

ARTICLE II, Religious and Charitable Solicitations [Adopted 8-3-1965 as Chapter 34 of the 1965 Code]

§ 171-8. Definitions.

Terms used in this Article shall have the following meanings:

CHARITABLE -- Includes the words "patriotic," "philanthropic," "social service," "welfare," "benevolent," "educational," "civic" or "fraternal," either actual or purported.

CONTRIBUTIONS -- Includes the words "food," "clothing," "money," "subscription," "property" or "donations" under the guise of a loan of money or property.

PERSON -- Any individual, firm, copartnership, corporation, company, association, joint-stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

RELIGIOUS -- As used herein, shall not mean and include the word "charitable," as herein defined, but shall be given its commonly accepted definition.

SOLICIT and SOLICITATION -- The request, directly or indirectly, of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable or religious purpose, as those purposes are defined in this Article.

§ 171-9. Permit required; exceptions.

No person shall solicit contributions for any charitable or religious purpose within the Village of Horseheads without a permit from the Village Manager authorizing such solicitation; provided, however, that the provisions of this section shall not apply to any established person organized and operated exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person if the solicitations by such established person are conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of any such established person.

§ 171-10. Application for permit.

- A. An application for a permit to solicit as provided by § 171-9 of this Article shall be made to the Village Manager upon forms provided by the Village of Horseheads, and such application shall be sworn to and filed at least fifteen (15) days prior to the time at which the permit applied for shall become effective; provided, however, that the Village Manager may, for good cause shown, allow the filing of an application less than fifteen (15) days prior to the effective date of the permit applied for. The application herein required shall contain the following information or, in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:
- (1) The name, address or headquarters of the person applying for the permit.
 - (2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and members and a copy of the resolution, if any, authorizing such solicitation.
 - (3) The purposes for which such solicitation is to be made, the total amount of funds proposed to be raised thereby and the use or disposition to be made of any receipts therefrom.
 - (4) A specific statement, supported by reasons and, if available, figures, showing the need for the contributions to be solicited.
 - (5) The name and address of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected with the proposed solicitation.
 - (6) An outline of the method or methods to be used in conducting the solicitations.
 - (7) The time when such solicitations shall be made, giving the preferred dates for the beginning and ending of such solicitations.
 - (8) Such other information as may be reasonably required by the Village Manager in order to determine the kind and character of the proposed solicitation and whether such solicitation is in the interest of, and not inimical to, the public welfare.
- B. If, while any application is pending or during the term of any permit granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the Village Manager, in writing, thereof within twenty-four (24) hours after such change.

§ 171-11. Standards for granting permits.

The Village Manager shall issue the permit provided for in § 171-9 of this Article whenever he or she shall find the following facts to exist:

- A. That all of the statements made in the application are true.
- B. That the applicant or its members, officers or agents have a good character and reputation for honesty and integrity.
- C. That the control and supervision of the solicitation will be under responsible and reliable persons.
- D. That the applicant has not engaged in any fraudulent transaction or enterprise.
- E. That the solicitation will not be a fraud on the public.
- F. That the solicitation is prompted solely by a desire to finance the charitable cause described in the application and will not be conducted primarily for private profit.

§ 171-12. Form and duration of permit.

Permits issued under this Article shall bear the name and address of the person by whom the solicitation is to be made, the number of the permit, the date issued, the dates within which the permit holder may solicit and a statement that the permit does not constitute an endorsement by the Village of Horseheads or by any of its departments, officers or employees of the purpose or of the person conducting the solicitation. All permits must be signed by the Village Manager. No permit may grant the right to solicit longer than ninety (90) days from its date, but the Village Manager may extend any permit for not more than ninety (90) additional days upon a showing that unnecessary hardship would be created by a failure to extend the original ninety-day period for such additional days.

§ 171-13. Revocation of permit.

Whenever it shall be shown that any person to whom a permit has been issued under this Article has violated any of the provisions of this Article or that any promoter, agent or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Village Manager shall immediately revoke the permit and give the permit holder written notice thereof, setting forth the reasons for which the permit has been revoked. The permit holder shall have the right to be heard before the Board of Trustees on the basis for the revocation of the permit.

§ 171-14. Penalties for offenses. EN(4)

The violation of or the failure to comply with any of the provisions of this Article shall constitute a violation of the Village Code and shall be punishable as provided in Chapter 1, General

Provisions, Article II, General Penalty.

§ 171-15. Exemptions. [Amended 7-15-1970]

This Article shall not apply to a person eighteen (18) years of age or under who is soliciting contributions on behalf of a charitable, religious, educational or athletic nonprofit organization.

Endnotes

1 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

2 (Popup - Popup)

Editor's Note: The current fee schedule is on file in the village offices.

3 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

4 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.