

CHAPTER 7

OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

.01 FIREARMS.

- (a) No person shall discharge any firearms, B.B. guns or pellet guns, or do any hunting in the City. This shall not apply to peace officers in line of duty, or any person acting in self-defense.
- (b) No person except a police officer shall carry any weapon, concealed or otherwise into a public meeting, tavern, or other retail business.

.02 WEAPONS.

Possession and carrying of weapons, concealed or otherwise, by any individual other than a law enforcement officer, shall be in accordance with the Illinois State laws. (2018-6)

.03 FIREWORKS.

No person shall sell, offer for sale, use or explode any fireworks in the City; except the City Council may grant a permit for a public display of fireworks under such conditions as it may impose under provisions of Chapter 127-1/2, Section 128 of the Illinois Revised Statutes.

.04 FIRES.

No person shall start or maintain any fire in any street, sidewalk, park or public place. All burning of materials shall be in compliance with regulation found elsewhere in this Code. (See Nuisances).

.05 BARBED WIRE FENCES.

No person shall maintain any fence containing barbed wire along or near any public sidewalk.

.06 NOISE.

No person shall disturb the peace and quiet of any other person by creating loud or excessive noise on his property, or by allowing other person to create loud and excessive noise on his or any property. Excessive noise shall include but not by way of limitation any of the following:

1. Loud playing of phonographs, radios, television sets, or music machines, or musical instruments.
2. Barking or howling dogs or cats.
3. Vehicles without mufflers, or the unnecessary use of horns on vehicles.
4. The use of any power lawn mower, snow blower, snowmobile, or other noisy machine between 11:00 P.M. and 7:00 A.M. the following day, or at any time if not properly muffled.

.07 DAMAGING PROPERTY.

No person shall damage, destroy or deface any City property or any public or private property without permission of the owner.

.08 LITTERING.

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

.09 POLLUTION.

No person shall pollute the air or any water course by excessive discharge of waste products or foreign matter.

.10 DISORDERLY HOUSES.

No person shall, within the City or within three miles of the outer limits of the City, keep, maintain, frequent, or be an inmate of or connected therewith, or contribute to the support of any disorderly house or house of ill fame or assignation, or any place used for the practice of fornication or adultery; or knowingly suffer or permit any house or other premises owned or occupied by him or under his control to be used for any such purposes.

.11 COMBUSTIBLE REFUSE.

It shall be unlawful to permit or store any combustible refuse in such manner as to create a fire hazard, or to throw or deposit, or cause to be thrown or deposited, any such refuse of any kind on or in any street, highway, or alley or other public place within the corporate limits of the City.

.12 PARADES AND DEMONSTRATIONS.

- (a) No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit therefor has been issued by the Mayor.
- (b) Application for such permit shall be made at least 72 hours before the event and shall provide such information as the Mayor shall require for proper protection of the public.
- (c) No such parade or demonstration shall be held during the night time or in any such manner as to obstruct the orderly use by the public of any street or public place.
- (d) The Mayor may issue such permit subject to such reasonable restrictions as he shall deem necessary to safeguard the residents of the City and to protect private and public property.

.13 SNOWMOBILES.

- (a) As used in this Section the following terms shall have the indicated definitions:

- 1. *Snowmobile* means a self-propelled device designed for travel on snow or ice or natural terrain, steered by skis or runners, and supported in part by skis, belts, or cleats.
- 2. *Operate* means to ride in or on a snowmobile (other than as a passenger) or to use or control the operation of a snowmobile in any manner, whether or not the snowmobile is underway.
- 3. *Operator* means every person who operates or is in actual physical control of a snowmobile.
- 4. *Snowmobile route* means a public street or alley in the City of Fairbury which is shown as a snowmobile route upon the map which is made a part of this Section and which shall be called the Snowmobile Route Map. Such map and all notations, references, and other information shown thereon are a part of this Section and have the same force and effect as if such map and all the notations, references, and other information shown thereon were all fully set forth or described herein. A copy of the original of such map, properly attested, is on file with the Clerk of the City.
- 5. *Storage location* means the place where a snowmobile is stored, kept or garaged in the City of Fairbury.

- (b) It shall be unlawful for any person to violate the following provisions of this Section:

- 1. No person shall operate a snowmobile on any laws or private property without the prior consent of the owner or lessee thereof.
- 2. No person shall operate a snowmobile on any public street or alley of Fairbury, other than a snowmobile route, for any purpose except to travel to and from his snowmobile's storage location and the nearest snowmobile route. In so doing the operator must use the shortest and most direct route between the storage location and the nearest snowmobile route and he must use alleys instead of streets wherever possible.
- 3. No person shall operate a snowmobile on a snowmobile route except to travel to and from his snowmobile's storage location and the city limits or to pass through the city from one city limit to another. Any person who operates a snowmobile on a snowmobile route shall not take his snowmobile off the snowmobile route until he passes the city limit, until he reaches his snowmobile's storage location, or until he reaches the point on a snowmobile route nearest to this storage location.
- 4. No person shall operate a snowmobile upon a snowmobile route or other public street or alley to

travel from one location in Fairbury to a different location in Fairbury nor for any purpose except to go to the city limit or to his storage location and always by the most direct and immediate route.

5. No person operating a snowmobile on a public street or alley of Fairbury shall stop his snowmobile except to obey traffic laws and regulations or as required by traffic conditions or emergency.
6. No person shall operate a snowmobile upon a public street or alley in Fairbury unless the snowmobile is properly registered and numbered in accordance with the laws of the State of Illinois and unless the snowmobile meets the equipment and safety requirements of the laws of the State of Illinois.
7. No person shall operate a snowmobile on a public street or alley in Fairbury unless that person possesses a valid motor vehicle driver's license.
8. No person shall operate a snowmobile on a public street or alley in Fairbury at a speed greater than fifteen (15) miles per hour.
9. No person shall operate a snowmobile on a public street or alley in Fairbury earlier than 7:00 A.M. or later than 11:00 P.M. of each day.
10. Every operator of a snowmobile shall obey all traffic signs and signals and all traffic laws, regulations, and ordinances of the State of Illinois and the City of Fairbury.
11. Every operator of a snowmobile shall always yield the right-of-way to the operator of all motor vehicles.
12. Whenever two or more snowmobiles are being operated along the same part of a public street or alley in Fairbury at the same time and in the same direction, then the operators of those snowmobiles shall keep them in single file.
13. If a street has no curb, the operator of a snowmobile shall keep his snowmobile on the shoulder of that street. On streets which have curbs, the operator shall keep his snowmobile as close to the curb as it is safe to do.
14. Any person who must deviate from the provisions of this section because of an emergency involving danger to human life or health or to property, shall inform the Chief of Police of such deviation and why it is necessary.

.14 CHILDREN ON STREET AT NIGHT.

- (a) It shall be unlawful for any person under sixteen (16) years of age to be or remain in or upon any street, alley, or other public place in the City after 11:00 P.M. and before 6:00 A.M., on any day, unless such person is accompanied by a parent or guardian, or other person having custody of such minor, or unless the said minor is in the performance of an errand or duty directed by such parent or guardian or other person having custody of such minor person, or unless such person is in lawful employment making it necessary to be in such places during the hours herein specified.
- (b) It shall be unlawful for anyone who has the legal care and custody of any person under sixteen (16) years of age, to allow or permit such person to go or be upon any public street, alley, or other public place in the City after 11:00 P.M. and before 6:00 P.M., on any day, except in case of necessity.

.15 PEDDLERS. (2016-10)

A. Statement of purpose.

Residents of the City of Fairbury have an inalienable interest in their personal safety, well-being and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential or commercial property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

B. Statement of policy. There must be a balance between these substantial interests of the city and its citizens, and the effect of the regulations in this section on the rights of those who are regulated. Based

on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door and on street solicitation and canvassing, the experience of its law enforcement officers and those affected by door-to-door and on street solicitation and canvassing, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door and on street solicitation and canvassing, the City adopts this section to promote the City's substantial interests in:

1. Respecting citizen's decisions regarding privacy in their residences and businesses;
2. Protecting persons from criminal conduct;
3. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
4. Permitting truthful and non-misleading door-to-door and on street solicitation regarding lawful goods or services in intrastate or interstate commerce.

C. The City finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

II. DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSING. Canvassing includes the act of any person, whether a resident of the City or not, traveling by foot, vehicle or other type of conveyance to go from place to place, from house to house or street to street by;

- A. Conducting a poll, survey or petition drive; or
- B. Sharing, communicating or otherwise conveying ideas, views or beliefs; or
- C. Disseminating oral or written information to a person willing to directly receive such information, for the political, religious, charitable purposes or otherwise.

CANVASSER. Shall mean any person, firm, corporation or entity including agents and employees of any firm, corporation or entity whether a resident of the City or not, who engages in canvassing.

CHARITABLE. Charitable means patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal.

COMMERCIAL BUILDING. Any place of business within the City or any structure used by any firm, corporation or entity for the purpose of sale of any items on a commercial basis.

HANDBILLS. Handbills include any commercial or noncommercial handbill, pamphlet, circular, newspaper, paper, newsletter, booklet, poster, leaflet, brochure or other printed or written materials that have been cast, deposited, placed, scattered or thrown onto the property of a business or residence in the absence of a subscription agreement.

HEARING OFFICER. Hearing Officer means the person designated or responsible for hearing and deciding any appeal relating to or regarding the denial or revocation of a solicitors permit and issuing a decision as required by this section.

PEDDLER. Any individual, firm, partnership, joint venture, association corporation, limited liability company, estate, trust, receiver, trustee, syndicate or other lawful entity, organization, society or association who or which engages in peddling.

PEDDLING. The selling, bartering or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways or public places of the City or from house to house, whether at one place thereon or from place to place, from any wagon, truck, pushcart or other vehicle or from movable receptacles of any kind, but shall not include the delivery routes where the purchaser has previously requested the seller to stop and exhibit his items.

RESIDENCE. Any separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

SOLICITOR. Any individual, firm, partnership, joint venture, association corporation, limited liability company, estate, trust, receiver, trustee, syndicate or other lawful entity, organization, society or association who or which engages in solicitation.

SOLICITATION. Solicitation occurs when a Solicitor travels by foot, vehicle, or any other type of conveyance, from place to place, house to house or from street to street while engaging in one or more of the following activities:

1. Seeking to obtain orders for the purchase of goods, wares, merchandise, personal property or services, of any kind, character or description for any kind of remuneration or consideration regardless of advance payment of sought.
2. Seeking to obtain prospective customers for application or purchase of insurance of any type.
3. Seeking to obtain prospective customers or clients for application or purchase of stocks, bonds, mutual funds or other investments.
4. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
5. Seeking to obtain gifts or contributions of money, clothing or other property of value for the support or benefit, in whole or in part, of any charitable or nonprofit association, organization, corporation, or project.
6. Delivery of hand bills.
7. Seeking to engage an individual in conversation at a residence or commercial building for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position or charitable conduct.
8. Activities falling within the definition of canvassing.
9. Activities falling within the definition of peddling.

III. PERMIT REQUIRED

Unless otherwise authorized, permitted or exempted, pursuant to the terms and provisions of this section, being in or upon a private residence or commercial property or on a public street within the City by a Solicitor for the purpose of solicitation is prohibited and is punishable as set forth in this Chapter.

A. APPLICATION FOR PERMITS; QUALIFICATIONS

No person shall engage in the act of solicitation, unless such person obtains a permit from the City Clerk, or his or her designee. The application for the permit, as provided by the City, shall contain information about the Solicitor including the following:

1. The applicant's name, telephone number, and home address and length of residence at such address;
2. Applicant's home address during the past three years if other than applicant's present home address;
3. Applicant's present local address if other than applicant's home address;
4. Applicant's business address if other than present home or local address;
5. Applicant's date of birth;
6. Applicant must provide a photo copy of applicant's driver's license or identification card issued by any state.
7. Applicant must provide vehicle(s) make, model, color and license plate number(s) of all vehicles used during solicitation.
8. If employed or acting as an agent, the name, address and telephone number of the employer or principal who is being represented, as well as credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or the principal;
9. The name and address of the applicant's employer/principal during the past three years if other than the present employer/principal.
10. A description sufficient for identification of the subject matter of the solicitation which the applicant will engage in;
11. The date of the latest previous application for a permit under this chapter, if any;
12. Whether a permit issued to the applicant under this chapter has ever been revoked and if so when and the reason for the revocation;
13. Whether the applicant has ever been convicted of a violation of any other provision of the City's Code of Ordinances or the code of any other municipality regulating solicitation;
14. A statement as to whether or not the applicant has been convicted of any criminal offense under any state law or federal law of the United States whether felony or misdemeanor, other than traffic violations. As to any such offense, the applicant must provide the date and place of conviction, the nature of the offense and the punishment or penalty imposed;
15. The names of the last cities or villages, not exceeding three, where applicant has carried on business immediately preceding the date of application and the address(es) from which the business was conducted in those municipalities;
16. Two photographs of the applicant will be taken by the City of Fairbury Police Department personnel at the time application is made;
17. Proof of possession of any license or permit which, under federal, state or local laws and regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such laws or regulations, would exempt the applicant from the permit requirements of this chapter. If a charitable solicitation, applicant shall show compliance with the Solicitation for Charity Act, 225 ILCS 460/0.01 et seq;

18. The application shall contain a waiver of liability, allowing the City to investigate and verify the information contained in the application;

19. The application shall be verified, under oath, by the applicant stating that the information contained therein is true and correct.

B. EXEMPTIONS

The following are exempt from obtaining a solicitor's permit and from registering with the City;

1. Persons specifically invited to a residence or a commercial building by a competent individual prior to the time of the person's arrival at the residence or commercial building.
2. Person delivering goods to a residence or commercial building pursuant to a previously made order, or persons providing services at a residence or commercial building to a previously made request by a competent individual.
3. Persons advocating or disseminating information for, against or in conjunction with any religious belief, or political position.
4. Those seeking to obtain from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter.
5. Those who canvas door to door.
6. Those who distribute handbills.
7. A person 18 years of age and under, who is participating in a fund raising program for, or sponsored by, a public or private elementary, high school or bon-a-fide children's organization, including, without limitation, Boy Scouts, Girl Scouts or youth sports.
8. A charitable solicitor other than a charitable organization soliciting on City streets (see Section on SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS). The charitable solicitor, however, shall comply with the Solicitation for Charity Act, 225ILCS 460/0.01 et. seq. if applicable.

Those who are exempt from obtaining a solicitor's permit or from registering with the City must comply with the Regulations and Prohibitions and the Duty to Observe the No Solicitors signs as provided below.

C. ISSUANCE OF PERMIT

The City Clerk, after consideration of the application and all information obtained relative thereto, shall issue the permit if the applicant possesses the qualifications for such permit as herein required and the issuance of a permit to the applicant would be in accord with the intent and purposes of this chapter. The permit shall be issued for the calendar year in which the application is filed. The permit shall be issued within 15 business days of the receipt of the application and shall expire on December 31 of the year for which it was issued. The solicitor shall surrender the permit to the City Clerk upon its expiration unless renewed by the Clerk.

D. CREDENTIALS

Upon approval of the application for a permit, as hereinbefore stated, the City Clerk shall issue credentials to the applicant whose credentials shall be issued in the name of the City Clerk, and to which shall be appended a photograph of the applicant. Such credentials must be worn by the solicitor at all times within the City limits regardless of whether the solicitor is on private or public property. The credentials will be worn in such a manner as to be readily visible to all individuals being solicited. Each solicitor shall wear a reflective vest provided by the City upon payment of a \$50 cash deposit. Such deposit will be returned to the solicitor when the reflective vest is returned in the same condition as it was given to the solicitor. Failure to return the vest within fourteen (14) days from the date of issue will result

in the forfeiture of the \$50 cash deposit. Failure to return the vest in the same condition as it was given may result in forfeiture of all or part of the \$50 cash deposit. (2020-3)

E. FEE

A permit applicant must pay a non-refundable application fee in the amount of Fifty Dollars (\$50.00) payable to the City of Fairbury (money order, in-state business check, cashier's check or exact change cash only). In addition, each person to whom a permit is issued shall pay an annual fee of Fifty (\$50.00) (money order, cashier's check, in-state business check or exact change cash only). Once a permit is issued, the solicitor may annually renew the permit for the following year, by paying, to the City, a renewal fee of Fifty (\$50.00) (money order, cashier's check, in-state business check or exact change cash only) by no later than December 31 in the year in which the permit is to expire. In addition the solicitor shall confirm the information contained within the initial application and advise the City of Fairbury of any changes with regard to the information. Should the solicitor fail to renew the annual permit, he shall be required to reapply for a new permit.

F. REGULATIONS AND PROHIBITIONS.

Unless otherwise noted herein, the following shall apply to all solicitors, including those exempt from obtaining a solicitor's permit or from registering with the City.

A. Any solicitor who has gained entrance to any residence or commercial building, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

B. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether issued a permit under this section or not, to solicit on a public street or to go upon any premises and ring the doorbell upon or near any door of a residence or commercial building located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract attention of the occupant of such residence or commercial building for the purpose of securing an audience with the occupant thereof, and engage in soliciting as herein defined, at any time less than 30 minutes after sunrise or 30 minutes before sunset.

Further, it shall be unlawful to engage in soliciting at any time Sunday or any state or national holiday.

This provision shall not apply to solicitation on streets by charitable organizations, as provided in section SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS herein.

Further, canvassing may take place during daylight hours only.

C. Except as provided in section SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS, no solicitor shall solicit in a City street or highway located within the City.

D. No solicitor shall represent in any manner that the City or its departments or officers have indorsed the permit holder or the products, services or causes on behalf of which individuals are being solicited without the written consent of the City Clerk.

E. No solicitor shall willfully obstruct the movement of any person on any street, sidewalk or other public place.

F. No solicitor shall solicit any person that has objected by words or conduct to such soliciting.

G. No solicitor shall refuse to identify the entity on whose behalf the soliciting is being conducted when requested to do so by any person contacted by the solicitor or fail to truthfully state the use(s) to which any solicited item(s) will be put when requested to do so by any person being solicited.

H. No solicitor shall threaten any injury or damage to any individual who declines to be subject to any soliciting or who declines to make a purchase, donation or contribution.

I. No solicitor shall directly or indirectly solicit for any purpose by misrepresentation of his or her name, occupation, financial conditions, social condition, physical or mental health, or residence and no person shall make or perpetrate any misstatement, deception or fraud in connection with any soliciting for any purpose.

J. No more than two solicitors shall solicit at a residence or commercial building at any one time.

K. It shall be unlawful for any solicitor, other than the permit holder, to use any permit issued under the provisions of this Section.

G. NOTICE TO SOLICITORS; DUTY TO OBSERVE.

A. Any occupant of a residence or commercial building may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or "No Trespassing" or similar sign which shall be posted on or near the main entrance door or near the property line adjacent to the sidewalk leading to the residence or the commercial building. Such sign shall not exceed the size parameters specified in the City's land use ordinance regulating to signs. The display of such sign shall be deemed to constitute notice to any solicitor that the inhabitant of the residence or commercial building does not desire to receive and/or does not invite solicitors. It shall be the responsibility of the solicitor to check such residence or commercial building for the presence of any such notice.

B. No solicitor shall solicit at any residence or commercial building where the owner or occupant has provided notice appropriate notice.

C. The provisions of this Section shall apply to all solicitors including those who are exempt from obtaining a solicitor's permit or registering with the City.

H. DENIAL OF PERMIT

The City Clerk, 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, and the issuance of a permit to the applicant would not be in accord with the intent and purposes of this chapter. Endorsement of the denial shall be made by the City Clerk upon the application.

I. REVOCATION OF PERMIT

Any permit issued hereunder may be revoked by the City Clerk for any of the following reasons:

1. Fraud, misrepresentation or false statement contained in the application for a permit.
2. Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation activities.
3. Conducting solicitation activities contrary to the provisions contained in the permit.
4. Conviction of a felony or any crime involving moral turpitude subsequent to the issuance of a permit.
5. Conducting solicitation activities in such a manner as to create a public nuisance constitute a breach of the peace or endanger the health, safety or general welfare of the public.
6. Going upon the premises of a residence or commercial building in violation of this section.

IV. SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS

A charitable organization which is either based in the City of Fairbury, or maintains a business or office in the City of Fairbury shall, through its representatives and or members, be permitted to solicit at the intersections of the City streets without obtaining a solicitor's permit but shall be required to register with the City Clerk and provide the following information.

- A. Name address and telephone number of the group or organization.
- B. Name address and telephone number a contact person for the group or organization.
- C. The purpose of the solicitations to be conducted in the City.
- D. A list of the names of the persons acting on behalf of the group or organization.
- E. Provide proof of compliance with the Solicitation for Charity Act 225ILCS 460/0.01 et. seq, if applicable.

Solicitation shall be allowed only under the following conditions.

- 1. Solicitations may only be set up at intersections controlled by stop signs and as designated by the Chief of Police and the City Clerk. They are not permitted at intersections controlled by electronic traffic signals.
- 2. Each individual participating in the event shall be at least 16 years of age and will wear a reflective vest.
- 3. The charitable organization or corporation shall be liable for any injuries to any person or property during the solicitation which is casually related to an act of ordinary negligence of the solicitor; shall hold the City harmless from any claim of said person(s); shall provide the City with evidence that the charitable organization is insured for One Millions Dollars (\$1,000,000.00) through an insurance company licensed to do business in Illinois and has named the City as an additional insured.
- 4. The solicitor shall comply with Section III: F. REGULATIONS AND PROHIBITIONS.
- 5. Solicitation may be conducted on weekends only. For the purpose of this section a weekend shall mean Friday, Saturday and Sunday.
- 6. The applicant shall be entitled to solicit a total of two (2) non-consecutive weekends in any calendar year.
- 7. The solicitation shall take place on no more than two (2) days of the weekend with the total hours of solicitation, per weekend, not exceed 8 hours. The applicant may divide this time over the two (2) day period.
- 8. Solicitation will not be permitted on the consecutive weekends whether by the same or different applicant. However should weather or other unforeseen circumstances prevent the charitable organization from conducting their scheduled solicitation, the City shall have the discretion to permit the applicant to conduct a solicitation on another weekend even if the solicitation would result in a solicitation taking place on consecutive weekends.
- 9. Solicitation will be permitted only between one-half hour after sunrise and one-half hour before sunset.

V. SOLICITOR’S BOND

A. Surety Bond. The applicant’s employer or principal or if none, the applicant himself shall, before a permit is issued to the applicant, file with the City a Surety Bond in the amount of Ten Thousand Dollars (\$10,000.00) covering the applicant’s employer or principal, as the case may be, or if none the applicant himself. If more than one employee or agent of an employer or principal is issued a permit under this Chapter the Bond shall cover all such employees or agents. The Bond shall condition that the applicant shall comply fully with the ordinances of the City and statutes of the State of Illinois regulating the solicitors, and guaranteeing to the residents of this City of Fairbury that all money paid to the applicant or his employer or principal will be accounted for or applied according to the representations of the applicant, and further guaranteeing to the residents of the City doing business with the applicant that the property purchased will be delivered according to the representations of the applicant. Actions on such Bond may be brought by the person aggrieved and for whose benefit among others the Bond is given.

Any person injured by the breach of conditions of such surety bond may make application to the City to recover legal damages suffered by reason of such breach; provided that the aggregate recovery from such surety bond for all such damages shall, in no event, exceed the sum of said surety bond. Where the legal damage suffered by an injured person exceeds the amount recovered by the surety bond, such partial recovery shall, in no way, prejudice the right of the injured person to proceed directly against the solicitor for such excess damages.

VI. PENALTY

Whoever violates any provisions of this section for which another penalty is not specifically provided, shall be penalized as provided in City's Code of Ordinances of the City of Fairbury.

VII. MAINTENANCE OF REGISTRY

The City Clerk shall maintain and make available, for public inspection and copy, a record of every completed application received and the permit issued by the City or the denial or revocation of same. The applicant's background check shall remain a confidential, protected, private record not available for public inspection.

VIII. PROVISIONS SEVERABLE

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of other provisions thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

.16 PENALTY.

Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a Class C Misdemeanor as provided in Illinois Revised Statutes, and penalized accordingly. Furthermore, the violation of this chapter is declared to be a public nuisance to be abated in the manner provided by law.

.17 SEVERABILITY.

If any portion of this Chapter is found to be unconstitutional, such finding shall not affect the remaining sections.

.18 USE OF MOTOR VEHICLES FOR THE COMMISSION OF CERTAIN OFFENSES

(a) Definitions.

For purposes of this Section, and the interpretation and enforcement thereof, the words, terms and phrases set forth below shall have the meanings respectively ascribed to them in this paragraph as follows.

1. "Motor Vehicle" means every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles, and motor scooters.
2. "Owner of Record" means, collectively, the record title holder or holders of the Motor Vehicle.

(b) Violations; exceptions.

1. The Owner of Record of any Motor Vehicle shall be liable to the City of Fairbury, Illinois, for an administrative penalty in the amount of Three Hundred Fifty Dollars (\$350.00), plus any applicable towing and storage fees payable to a towing agent, whenever any such Motor Vehicle is used in the commission of any of the following offenses and any Motor Vehicle used in the commission of any such offenses shall be subject to seizure and impoundment as provided in this Section:

- (i) the knowing possession of more than 30 grams of cannabis as provided in Section 4 of the Cannabis Control Act (720 ILCS 550/4) or the knowing possession of a controlled substance as

provided in Section 402 of the Illinois Controlled Substances Act (720 ILCS 570/402).

(ii) driving under the influence of drugs as provided in Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501).

2. The Owner of Record of any Motor Vehicle shall be liable for any towing and storage fees payable to a towing agent, whenever any such Motor Vehicle is used in the commission of any of the following offenses and any Motor Vehicle used in the commission of any such offenses shall be subject to seizure and impoundment as provided in this Section: (2019-2)

(i) the knowing possession of more than 30 grams of cannabis as provided in Section 4 of the Cannabis Control Act (720 ILCS 550/4) or the knowing possession of a controlled substance as provided in Section 402 of the Illinois Controlled Substances Act (720 ILCS 570/402). (2019-2)

(ii) driving under the influence of alcohol, drugs and/or intoxicating compounds as provided in Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501). (2019-2)

(iii) driving on a suspended or revoked license as defined in Section 5/6-303 of the Illinois Vehicle Code (625 ILCS 5/6-303). (2019-3)

3. For purposes of this Section, a Motor Vehicle is not considered to have been used in a violation that would render such Motor Vehicle eligible for seizure and impoundment if: (1) the Motor Vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonable should have been discovered; (2) the Motor Vehicle was operating as a commercial carrier and the violation occurred without the knowledge of the person in control of the Motor Vehicle; or, (3) the alleged Owner of Record provides adequate proof that the Motor Vehicle had been sold to another person prior to the violation.

4. If an administrative penalty is imposed against the Owner of Record of a vehicle pursuant to Section (b)1 above, and if the person who was charged with the offense which led to the imposition of said administrative penalty is later found to be not guilty of said offense, then the administrative penalty shall be refunded to the Owner of Record of said vehicle. The Owner of Record shall apply to the Chief of Police of the City of Fairbury for said refund and the Chief of Police shall approve said refund upon receiving proof of said finding of not guilty.

(c) Administrative Penalty.

Whenever a police officer has probable cause to believe that a Motor Vehicle is subject to seizure and impoundment pursuant to Paragraph (b) of this Section such police officer shall provide for the towing of such Motor Vehicle to a facility designated by the City of Fairbury, Illinois. Before or at the time the Motor Vehicle is towed, the police officer shall notify the Owner of Record or the person in control of the Motor Vehicle at the time of the alleged violation, whichever is present if there is such a person, of the fact of the seizure and impoundment and of the right of the Owner of Record to petition the Chief of Police to reverse the administrative penalty, in writing, on the next business day. The Chief of Police, upon his denial, will inform the Owner of Record of his/her right to request a vehicle impoundment hearing under this Chapter. (2017-6)

(d) Notice.

Within 72 hours after a Motor Vehicle is seized and impounded pursuant to paragraph (c) of this Section, the police department shall notify by certified mail the Owner of Record and any lien holder of record of the fact of the seizure and impoundment and the right to request a Motor Vehicle impoundment hearing under this Chapter. However, no such notice need be sent to the Owner of Record if the Owner of Record is personally served with the notice at the time the Motor Vehicle is seized and impounded and the Owner of Record acknowledges receipt of such notice in writing. A copy of such notice shall be forwarded to the hearing officer. The notice shall state the penalties that may be imposed if no hearing is requested, including that a Motor Vehicle not released by payment of the administrative penalty and applicable towing and storage fees may be sold or disposed of by the City of Fairbury, Illinois, in accordance with applicable law.

(e) Hearing.

The Owner of Record seeking a vehicle impoundment hearing shall file a written request for such a hearing with the Police Department of the City of Fairbury, Illinois, no later than 15 days after notice was mailed or otherwise given to the Owner of Record under paragraphs (c) or (d) of this Section. The hearing date shall be no more than 10 calendar days after a request for a vehicle impoundment hearing has been filed. If, after the vehicle Impoundment hearing, the hearing officer determines by a preponderance of the evidence that the Motor Vehicle was used in the violation, the hearing officer shall enter an order finding the Owner of Record liable for the applicable towing and storage fees payable to the towing agent. If, after a hearing, the hearing officer does not determine by a preponderance of the evidence that the Motor Vehicle was used in such a violation, the hearing officer shall enter an order finding for the Owner of Record and for the return of the Motor Vehicle and any applicable towing and storage fees: provided that if the Motor Vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws, the Motor Vehicle shall not be returned unless and until the City of Fairbury, Illinois, receives notice from the appropriate state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted; or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the Motor Vehicle shall be returned to the Owner of Record. If the Owner of Record requests a vehicle impoundment hearing but fails to appear at such hearing or fails to request a vehicle impoundment hearing in a timely manner, the Owner of Record shall be deemed to have waived his or her right to such a hearing and the hearing officer shall enter a default order in favor of the City of Fairbury, Illinois, for the amount of the towing and storage fees payable to the towing agent. However, if the Owner of Record pays such applicable towing and storage fees and the Motor Vehicle is returned to the Owner of Record, no default order need be entered if the Owner of Record is informed of his or her right to a hearing and signs a written waiver, in which case an order of liability shall be deemed to have been made when the City of Fairbury, Illinois, receives the written waiver.

(f) Hearing officer; proceedings.

1. The Mayor or his or her designee shall serve as the hearing officer for vehicle impoundment hearings under this Section.

2. All interested persons shall be given a reasonable opportunity to be heard at any vehicle impoundment hearing. The formal rules of evidence will not apply at any such hearing.

3. Any sworn or affirmed report, including a report prepared in compliance with Section 11-501.1 of the Illinois Vehicle Code (625 ILCS 5/11-501 .1) that (1) is prepared in the performance of a law enforcement officer's duties and (2) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the Owner of Record's liability under paragraph (b) of this Section and shall support a finding of the Owner of Record's liability under paragraph (b) of this Section unless rebutted by clear and convincing evidence.

(g) Disposition of impounded vehicle.

An administrative penalty imposed pursuant to this Chapter shall constitute a debt due and owing the City of Fairbury, Illinois, which may be enforced in any manner provided by law. Except as otherwise provided in this Chapter, a Motor Vehicle impounded pursuant to this Chapter shall remain impounded until (1) the administrative penalty is paid in full to the City of Fairbury, Illinois, and all applicable towing and storage fees are paid to the towing agent, in which case the Owner of Record shall be given possession of the Motor Vehicle, (2) a cash bond in the amount of \$350.00 is posted with the City of Fairbury, Illinois, and all applicable towing and storage fees are paid to the towing agent, at which time the Motor Vehicle shall be released to the Owner of Record, or (3) the Motor Vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law. Notwithstanding any other provision of this Section, whenever a person with a lien of record against a Motor Vehicle impounded under this Section has commenced foreclosure proceedings, possession of the Motor Vehicle shall be given to that person if he or she pays the applicable towing and storage fees and agrees in writing to refund to the City of

Fairbury, Illinois, the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative penalties imposed under this Section. Notwithstanding any other provision of this Section, no vehicle that was seized and impounded pursuant to state or federal drug asset forfeiture laws shall be returned to the Owner of Record unless and until the City of Fairbury, Illinois, has received notice from the appropriate state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted: or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the vehicle shall be returned to the Owner of Record.

(h) Posting of bond.

If a cash bond in the amount of \$350.00 is posted with the City of Fairbury, Illinois, the Impounded Motor Vehicle shall be released to the Owner of Record upon the payment of any applicable towing and storage fees to the towing agent. If an administrative penalty is imposed for any violation under paragraph (b) of this Section, the \$350.00 cash bond will be forfeited to the City of Fairbury, Illinois; however, in the event a violation under paragraph (b) of this Section, is not proven by preponderance of the evidence, the \$350.00 cash bond will be returned to the person posting the bond. All bond money to be forfeited to the City of Fairbury, Illinois, pursuant to this Section shall be held by the City of Fairbury, Illinois, until 30 days after an administrative penalty is imposed by the hearing officer under this Section, or, if there is a judicial review, until such judgment is rendered by a court of competent jurisdiction.

(i) Failure to pay penalty.

If the administrative penalty and applicable towing and storage fees are not paid within 30 days after an administrative penalty is imposed under this Section against an Owner of Record who defaults by failing to appear at the vehicle impoundment hearing, the Motor Vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable towing and storage fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the City of Fairbury, Illinois, whichever is applicable, the Motor Vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles; provided that, if the Motor Vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws and proceedings have been instituted under state or federal drug asset forfeiture laws, the Motor Vehicle may not be disposed of by the City of Fairbury, Illinois, except as consistent with those proceedings.

.19 ESTABLISHING HALLOWEEN TRICK OR TREAT HOURS

Trick or Treat hours for Halloween shall be from 4:00 p.m. to 8:00 p.m. on October 31 of every year beginning in 2011.