

STATE OF ILLINOIS :
COUNTY OF LIVINGSTON : Ordinance No. 2023-____
CITY OF FAIRBURY :

AN ORDINANCE AMENDING CHAPTER 7
OF THE MUNICIPAL CODE OF THE CITY OF FAIRBURY OF 1982
IN RELATION TO SOLICITORS

Whereas, the City of Fairbury adopted its Municipal Code Book in 1982, and

Whereas, Chapter 7 of the Municipal Code Book of the City of Fairbury pertains to Offenses, and

Whereas, Section .15 of Chapter 7 of the Municipal Code Book of the City of Fairbury pertains to Peddlers, and

Whereas, it is necessary to amend parts of Section .15 of Chapter 7 of the Municipal Code Book of the City of Fairbury of 1982 to be more protective of the citizens of the City of Fairbury.

NOW, THEREFORE, be it ordained by the City Council of the City of Fairbury, Livingston County, Illinois as follows:

SECTION I

Chapter 7, Section .15 of the Municipal Code of the City of Fairbury of 1982 shall be amended to read;

I. PREAMBLE

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:

- a) Respecting citizen's decisions regarding privacy in their residences and businesses;
- b) Protecting persons from criminal conduct;
- c) Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
- d) 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.

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:

- a) 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.
- b) Seeking to obtain prospective customers for application or purchase of insurance of any type.
- c) Seeking to obtain prospective customers or clients for application or purchase of stocks, bonds, mutual funds or other investments.
- d) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- e) 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.
- f) Delivery of hand bills.
- g) 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.
- h) Activities falling within the definition of canvassing.
- i) Activities falling within the definition of peddling.

III. NO DOOR-TO-DOOR SOLICITING

A. Peddlers. It shall be unlawful to peddle or solicit goods, wares, products or services in the City, from house-to-house, place-to-place, or street-to-street, except those persons participating in duly recognized fundraising events, including but not limited to, religious, political, charitable, patriotic or philanthropic events. This division (A) shall not apply to persons making regular sales or deliveries on established routes throughout the year.

B. Hourly Limitations on door-to-door peddlers, solicitors, or canvassers. It shall be unlawful for peddlers or door-to-door solicitors or canvassers as defined in this chapter to peddle, solicit or canvass for commercial, business, religious, political, charitable, patriotic, or philanthropic purposes door-to-door, house-to-house, place-to-place, or street-to-street after sunset or before sunrise on any day.

IV. 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.
- c) Further, it shall be unlawful to engage in soliciting at any time Sunday or any state or national holiday.
- d) This provision shall not apply to solicitation on streets by charitable organizations, as provided in section SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS herein.
- e) Further, canvassing may take place during daylight hours only.
- f) 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.
- g) 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.
- h) No solicitor shall willfully obstruct the movement of any person on any street, sidewalk or other public place.
- i) No solicitor shall solicit any person that has objected by words or conduct to such soliciting.
- j) 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.
- k) 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.
- l) 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.
- m) No more than two solicitors shall solicit at a residence or commercial building at any one time.
- n) It shall be unlawful for any solicitor, other than the permit holder, to use any permit issued under the provisions of this Section.

V. 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.

VI. SOLICITATION ON STREETS BY CHARITABLE ORGANIZATIONS

A. 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 460/0.01et. seq, if applicable.

B. Solicitation Rules. Solicitation shall be allowed only under the following conditions.

- a) 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.
- b) Each individual participating in the event shall be at least 16 years of age and will wear a reflective vest.
- c) C. 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.
- d) The solicitor shall comply with Section IV. REGULATIONS AND PROHIBITIONS.
- e) Solicitation may be conducted on weekends only. For the purpose of this section a weekend shall mean Friday, Saturday and Sunday.
- f) The applicant shall be entitled to solicit a total of two (2) non-consecutive weekends in any calendar year.
- g) 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.
- h) 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.
- i) Solicitation will be permitted between a half hour after sunrise and a half hour before sunset.

VII. 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 Chapter 1, .06 Penalties.

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.

SECTION II

This ordinance shall be effective after passage by the City Council of the City of Fairbury, Illinois, and its approval by the Mayor of the City of Fairbury, Illinois, and its publication in pamphlet form as required by law.

Passed by the City Council of the City of Fairbury, Illinois on _____, 2023.

Ayes: _____ Nays: _____ Absent: _____

Approved by the Mayor of the City of Fairbury, Illinois on _____, 2023.

(CITY SEAL)

Mayor

Attest: _____
City Clerk