

ORDINANCE NO. 922

AN ORDINANCE TO AMEND ARTICLE I OF CHAPTER 8 OF ORDINANCE NO. 1 ENTITLED "REVISED CODE OF ORDINANCES OF 1974", ENACTED ON THE 15TH DAY OF JULY, 1974.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF COBDEN, UNION COUNTY, STATE OF ILLINOIS,

Section 1: That Chapter 8 of the Village of Cobden Revised Code of Ordinances be and hereby is amended to read as follows:

Chapter 8

DOOR-TO-DOOR SOLICITATION

Whereas, the provisions of this Chapter are intended to balance the First Amendment rights of door-to-door solicitors in the Village with the privacy, safety, health and welfare of the Village residents by:

- a. Requiring all commercial solicitors to conduct any door-to-door solicitation within the Village pursuant to a permit issued by the Village;
- b. Reasonably limiting the hours of door-to-door solicitation activities; and,
- c. Prohibiting all door-to-door solicitations at residences where the owner or occupant has prohibited solicitation in a manner consistent with the provisions of this Chapter.

Whereas, the intent of this Chapter is to protect against criminal activity, including fraud, disorderly conduct, burglary, and assault, to minimize the unwelcome disturbance of citizens and the disruption of privacy, and to otherwise preserve the public health, safety and welfare by regulating, controlling and licensing Door-to-Door Solicitors.

Whereas, the Village has an interest in attempting to protect the well-being, tranquility, and privacy of the home. The privacy includes an ability to avoid unwelcome intrusions and the Village has a responsibility to protect citizens from such intrusions.

Whereas, the Village also has an interest in attempting to protect consumers from inappropriate or fraudulent practices and to protect its citizens from criminal activity such as disturbing the peace, theft, trespass and assault.

Whereas, the Village has the responsibility to attempt to protect its citizens from actual harm as well as to attempt to protect them from potential harm which may result from unregulated Door-to-Door Solicitation.

Whereas, there must be a balance of these legitimate interests of the Village and the effect of the regulations on the rights of those who are regulated. The Village finds that the procedures, rules and regulations set forth in this Chapter are tailored narrowly to preserve and protect the Village's interests reflected herein while at the same time balancing the right of those regulated.

Whereas, the Village of Cobden is authorized to request any supporting documentation in conjunction with applications filed for a Door-to-Door Solicitor Permit, or to ascertain requests for exemption from a permit as set forth in this Chapter.

Section 8-1-1 Solicitation prohibited.

- A. No person shall engage in commercial solicitation upon any premises without prior invitation from the occupant thereof if such premises is posted with a notice prominently displayed upon which is printed "No Commercial Solicitors" or "No Commercial Solicitation". For the purposes of this subsection, a dwelling house or apartment or other residence will be deemed to be posted against solicitation if the above notice is exhibited on or near the main entrance to the premises or on or near the main door to any residence located thereon.
- B. No person shall engage in any form of solicitation upon any premises without prior invitation from the occupant thereof if such premises is posted with a notice prominently displayed upon which is printed "No Solicitors" or "No Solicitation". For the purposes of this subsection, a dwelling house or apartment or other residence will be deemed to be posted against solicitation if the above notice is exhibited on or near the main entrance to the premises or on or near the main door to any residence located thereon. This provision shall apply to all solicitation including, but not limited to commercial, religious, charitable, non-profit, or political.

Section 8-1-2 Commercial Solicitation Permit required.

It shall be unlawful for any person to engage in door-to-door commercial solicitation activities within the Village without first obtaining a Door-to-Door Solicitation Permit issued by the Village of Cobden. Unless authorized or permitted pursuant to the terms and provisions of this Chapter, the practice of being in and upon private residential property within the Village by solicitors for the purpose of commercial solicitation, the same is prohibited and is punishable as set forth in this Chapter.

Section 8-1-3 Exemptions.

- A. Any solicitor previously invited by the owner or occupant of the private residential property is exempt from the prohibitions under Sections 8-1-1 and 8-1-2. Such invitation shall not relieve the commercial solicitor from complying with all other terms and provisions of this Chapter including the requirement to obtain a Door-to-Door Solicitation Permit.
- B. Those persons engaged in non-commercial solicitation as defined herein, are not required to obtain a Door-to-Door Solicitation Permit.

Section 8-1-4 Possession and display of license.

Every person permitted pursuant to this Chapter must at all times possess and display their Door-to-Door Solicitation Permit in a conspicuous place while soliciting, and shall produce the same whenever requested to do so by a police officer or other person.

Section 8-1-5 Door-to-door solicitation restrictions.

- A. No person will engage in solicitation upon any residential premises after having been asked by the owner or occupant thereof to leave such premises or residence.
- B. There will be no solicitation upon any residential premises, other than upon prior invitation by the occupant, prior to 9:00 a.m. or after 6:00 p.m. of any day.
- C. Not more than two individuals will engage in solicitation upon any residential premises at the same time for the same goods or merchandise, services, or for religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision will be deemed to have violated such provision.

- D. Every person engaged in solicitation shall, at the time of initial contact with a prospective customer or donor, immediately identify himself and truthfully state the purpose of the solicitation.

Section 8-1-6 Application contents; fees.

- A. Each person applying for a Door-to-Door Solicitation Permit shall submit written application on forms provided by the Village of Cobden with payment of the permit fee to the Village of Cobden. The applicant shall state upon oath or affirmation that the information contained in the application is truthfully provided to the best of their knowledge and belief.
- B. The applicant shall supply the following information and any such additional information that the Village of Cobden may include upon the application form:
 - 1. Applicant's true and correct name and any former names or aliases;
 - 2. Applicant's business address and business telephone number;
 - 3. If different from the applicant, the name, address and telephone number of the responsible person or entity;
 - 4. The name, address and telephone number of the applicant's immediate supervisor, if any;
 - 5. Information regarding the business including, without limitation, its legal status and proof of registration with, or a certificate of good standing from, the Illinois Secretary of State;
 - 6. Proof the applicant or the applicant's company has registered with the Illinois Department of Revenue for payment of sales tax;
 - 7. A brief explanation of the nature and duration of the solicitation activity that requires a permit under this ordinance.
 - 8. Whether a permit, license or registration in connection with soliciting has ever been revoked by any jurisdiction and an explanation of the circumstances;
 - 9. A complete list of all persons to be authorized to solicit under the permit;
 - 10. For each person authorized to solicit under a permit, the following information:
 - a. Name, address, telephone number and date of birth;
 - b. Proof of identification by submittal of any of the following that bear a photograph of said person:
 - i. A valid U.S. driver's license or identification card issued by any state;
 - ii. A valid U. S. uniformed service identification card;
 - iii. A valid U.S. passport; or
 - iv. U.S. Citizenship & Immigration Services Green Card.
 - 11. Any other information determined to be relevant by the administrative official; and
 - 12. Permit fees as adopted in the Village of Cobden schedule of fees.

Section 8-1-7 Commercial Permit holder responsibilities.

- A. Any person seeking to engage in door-to-door commercial solicitation must obtain a Door-to-Door Solicitation Permit from the Village of Cobden and pay the permit fee as provided in this Chapter before commencing any such solicitation.
- B. All Door-to-Door Solicitation Permits shall be issued in the name of the applicant. Upon issuance of each permit, the Village of Cobden shall create and maintain a list of all persons authorized to engage in commercial solicitation under the permit. It shall be the sole responsibility of the permit holder to:
 - 1. Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and the provisions of this Chapter;
 - 2. Ensure that the permit is not transferred to any other business or individual.

- C. The Village of Cobden shall, within five (5) business days, of the Village's receipt of a complete application for a permit under this Chapter, issue such permit, together with a full list of all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the Village of Cobden determines that the permit application is denied under the criteria stated in Section 8-1-9.

Section 8-1-8 Persons prohibited.

A person shall not be eligible for issuance of a permit nor be authorized under a permit under this Chapter if:

- A. A permit previously issued to such person by the Village of Cobden under Section 8-1-7 has been revoked by the Village of Cobden under Section 8-1-9.

Section 8-1-9 Denial or revocation of a Permit.

The Village of Cobden shall deny an application for a permit, refuse to renew a permit or revoke a permit issued under this Chapter if the Village of Cobden determines that the applicant has:

- A. Made any material misrepresentation or false statement in the application for the permit;
- B. Failed to notify the Village of Cobden if any person authorized to solicit under the permit, including the applicant, becomes a prohibited person as outlined in Section 8-1-8 of this Chapter, after the issuance of the permit.
- C. Failed to obtain necessary licenses as required by the Village, including but not limited to a sales and use tax license, or an Occupational Tax license;
- D. Failed to conduct and/or supervise solicitation activities under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this Chapter or,
- E. Authorized, condoned or knowingly tolerated any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

Section 8-1-10 Permit fees.

Upon making an application for a permit, the applicant shall pay a license fee which shall be:

- A. For a period of one (1) day, the fee shall be Ten (\$10.00) Dollars per person per day;
- B. For an annual license, the fee shall be Twenty (\$20.00) Dollars per person per year.

Section 8-1-11 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter:

Commercial Solicitor shall mean any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.

Door-to-Door Commercial Solicitation shall mean attempting to make personal contact with any person at his residence, without prior invitation by or appointment with the resident, for the primary purpose of:

- A. Attempting to sell, for present or future delivery, any goods, wares or merchandise, newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he is collecting advance payments for such sales and services;

- B. Seeking or attempting to obtain contributions of money or any other thing of value for the benefit of any association, organization, corporation, or program, excluding those defined under door-to-door non-commercial solicitation;
- C. Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for the purchase at a location away from the residence or at a future time.

Door-to-Door Non-Commercial Solicitation shall mean attempting to make personal contact with any person at his residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- A. Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c).
- B. Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c).
- C. Personally delivering to the resident a handbill or flyer advertising a future not-for-profit event, activity, good or service.
- D. Distribution of religious tracts and information on behalf of a religious organization;
- E. Door-to-Door canvassing and pamphleteering as a vehicle for the dissemination of ideas, or views or opinions by one engaged in political activities as a candidate or on behalf of a candidate in a recognized federal, state or local election, or on behalf of an issue on an upcoming ballot.

Door-to-Door Solicitation Permit shall mean a document issued by the Village of Cobden authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

Employer shall mean any person, company, corporation, business, partnership, organization or any other entity on behalf of whom a person so acting.

"No Commercial Solicitors" or "No Commercial Solicitation" Sign shall mean a prominently displayed sign that is exhibited on or near the main entrance to the premises or on or near the main door to any residence, stating "No Commercial Solicitors" or "No Commercial Solicitation" and applies only to commercial solicitation.

"No Solicitors" or "No Solicitation" Sign shall mean a prominently displayed sign that is exhibited on or near the main entrance to the premises or on or near the main door to any residence, stating "No Solicitors" or "No Solicitation" and applies to all form of solicitation.

Non-Commercial Solicitor shall mean any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door non-commercial solicitation.

Permit Holder shall mean any person to whom a permit has been issued under the provisions of this Chapter.

Public Entity shall mean the state, county, municipality, school district, special improvement district, and any other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.

Residence shall mean a private residence in the Village, including but not limited to condominium units and apartments, and shall include the yards, grounds or hallways thereof.

Section 8-1-12 Violations and penalties.

It is a misdemeanor for any person to violate any of the provisions of this chapter, and upon conviction thereof shall, if a penalty is not otherwise specified, be punished by a fine of not more than Seven Hundred Fifty Dollars (\$750.00), to which court costs shall be added. In situations found appropriate by the trial court restitution may also be required.

Section 2: This ordinance shall take effect upon passage, approval and publication in pamphlet form by the Village of Cobden.

PASSED, ADOPTED AND APPROVED THIS 4th DAY OF May, 2015.


Paul Z. Tomazzoli, Village President

ATTEST:


Karen M. Winzenburger, Village Clerk

Record of Vote: Ayes: 5 - Britt, Brumleve, Gomez, Maze, Pearson
 Nays: 0 - None
 Absent: 1 - Stewart