

Due to door to door sale concerns received from residents this year, Carrie and I looked at codes of surrounding municipalities and found a majority included prohibited practices (see below) which ours did not. Since we wanted to add this section, we attempted to clean up the entire code.

Prohibited Practices

The following practices are hereby prohibited:

- (1) Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment;
- (2) Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers" or "No Solicitors" or words of similar meaning;
- (3) Calling at the rear door of any dwelling place unless previously arranged;
- (4) Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises;
- (5) Misrepresenting or making false, deceptive or misleading statements concerning the quality, quantity or character or any goods or services offered for sale, the purpose of the visit, the identity of the caller or the identity of the organization represented;
 - a. A direct seller for a charitable organization shall specifically disclose what portion of the sale price of goods or services offered will actually be used for the charitable purpose for which the organization is seeking assistance, and said portion shall be expressed as a percentage of the sale price of the goods or services.

Debbie Baenen, Clerk-Treasurer

ORDINANCE NO. 2017-09

AN ORDINANCE REPEALING AND RECREATING CHAPTER 188, CANVASSERS AND TRANSIENT MERCHANTS, OF THE VILLAGE OF ALLOUEZ MUNICIPAL CODE

THE VILLAGE BOARD OF THE VILLAGE OF ALLOUEZ, BROWN COUNTY, WISCONSIN, DOES ORDAIN THAT CHAPTER 188 BE RECREATED TO READ AS FOLLOWS:

SECTION 1.

§ 188-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CANVASSER or SOLICITOR

A person who goes from place to place within the Village soliciting orders for the future delivery of property or for services to be performed in the future. It includes any person who occupies any place within the Village for the purpose of exhibiting samples and taking orders for future delivery.

~~Any person, whether a resident of the Village of Allouez or not:~~

A.

~~Traveling from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, merchandise, or personal property of any nature whatsoever, for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample or representation of the subject of such sale, or whether or not he or she is collecting advance payments on such sale.~~

B.

~~Who, for himself or herself, or for any other person, firm, association or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the Village of Allouez for the sole purpose of exhibiting samples and taking orders for future delivery.~~

C.

~~Traveling from place to place, from house to house, or from street to street, solicits funds or any other thing of value on behalf of any person, firm, association, corporation, group or cause, regardless of whether or not any goods, wares, personal property, services or anything of value is then delivered or is promised to be delivered at any time in the future.~~

PEDDLER

A person who goes from place to place within the Village offering for sale property which he or she carries with him or her.

~~Any person, whether a resident of the Village of Allouez or not, traveling from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden or truck farm products or provisions, and offering the same for sale or making sales and delivering articles to the purchaser.~~

TRANSIENT MERCHANT

A person, firm, association, or corporation engaging temporarily in a retail sale of goods, wares, or merchandise, in any place in this state and who, for the purpose of conducting business, occupies any lot, building, room, or structure of any kind within the Village.

~~Any person, firm, or corporation, whether as owner, agent, consignee, or employee, whether a resident of the Village or not, who engages in the sale of merchandise, meats, fish, vegetables, fruits, garden and farm products temporarily at a fixed location in the Village and who does not intend to become and does not become a permanent merchant of the Village of Allouez. For the purpose of this definition, "sale of merchandise" shall also include a sale in which the personal services rendered upon or in connection with such merchandise constitute the greatest part of value given for the price received.~~

§ 188-2 Registration / Permit required.

It shall be unlawful for any person to engage in direct sales or solicitation within the village as a canvasser, solicitor, peddler or transient merchant **without first being registered** with the Village. Village Board approval is required for Transient Merchant vending in Village Parks (vendors with a tax exempt number shall be exempt from the fee). ~~Canvassing, soliciting or peddling is not allowed in any Village Park.~~

A.

Permit required:

No person, firm, **association** or corporation, except as provided in Subsection **B**, shall engage in the business of, or act as, a canvasser, solicitor, peddler or transient merchant as defined herein within the limits of the Village of Allouez without having a valid permit ~~therefor~~ from the Village in compliance with the provisions of this chapter. Every person who shall act as an assistant or helper to any canvasser, solicitor, peddler or transient merchant shall not act in such capacity without having his or her own valid permit as required in this chapter.

B.

Permit is not required of the following:

~~(1)~~

~~Any unpaid volunteer who is acting on behalf of any charitable, religious or nonprofit group or association, as defined by and so qualified under the Internal Revenue Code.~~

~~(2)~~

~~Anyone acting on behalf of any~~ charitable, religious or nonprofit group, association or corporation, as defined by and qualified under the Internal Revenue Code, for the solicitation of funds, no part of which is paid either directly or indirectly to ~~any canvasser, solicitor~~ the person soliciting the funds or any person, firm or corporation which employs any canvasser or ~~solicitor the person~~ for acquiring such funds.

~~C.~~

~~No person, firm or corporation shall allow or permit any other person, firm or corporation to use his, her or its permit, or shall use a permit which has been issued to another. A permit found in the possession of a person, firm, association or corporation who or which is not the person, firm, association or corporation to whom or to which it was issued shall establish a rebuttable presumption that:~~

~~(1)~~

~~The person, firm, association or corporation having possession of the permit intends to act, or has acted, whichever the case may be, as a canvasser, solicitor, peddler or transient merchant within the Village without obtaining his, her, or its own permit; and/or~~

~~(2)~~

~~The person, firm, association or corporation to whom or to which the permit was issued has intentionally allowed and/or permitted another to use his, her or its permit to act as a canvasser, solicitor or transient merchant within the Village.~~

§ 188-3 **Application for permit.**

Any person desiring to secure a permit as herein described as a canvasser, solicitor, peddler, or transient merchant shall apply therefor in writing over his signature to the Village Clerk-Treasurer on forms provided by the Village, and such application shall state **include:**

A.

The name, **previous names or aliases**, address, **temporary address if any**, **DOB** age, sex and social security number **phone number** of the applicant;

B.

The name, and address **and phone number** of the person, firm or corporation employing the applicant, and the name **and phone number** of the applicant's supervisor;

C.

The nature, character, **type** and source of the foods, wares, merchandise, or services to be offered by the applicant;

D.

The personal description and **Copy of** photo identification of the applicant, together with **and their** number of his Wisconsin motor vehicle operator's license **number**; or the

number and state of issuance of such motor vehicle operator's license as he may have in his possession.

E.

If the applicant owns or uses an automobile for canvassing, soliciting or peddling, a description of the vehicle together with the license number and name of state issuing the license;

F.

Statement as to whether applicant has been convicted of any crime, which shall further include any ~~or ordinance violation related to applicant's~~ canvasser, solicitor, peddler or transient merchant business; the nature of the offense and the date and place of conviction.

§ 188-4 Fees.

Fees for each permit issued under the provisions of this chapter are outlined in Chapter **225**, Fees and Charges, and fall into three categories:

A.

Canvassers, solicitors and peddlers, except as otherwise provided in Subsection **C.**

B.

Transient merchants.

C.

Canvassers or solicitors who are acting solely on behalf of any charitable, religious or nonprofit group or association as defined by and so qualified under the Internal Revenue Code pay no fee, except that each such canvasser or solicitor shall pay the actual costs incurred by the Village for a background check to determine if the applicant has been convicted of a crime which is specified in § **188-78B**.

§ 188-5 Expiration of permit.

A.

~~All annual permits issued under the provisions of this chapter shall expire on December 31 in the year issued; other than annual permits shall expire on the day specified in the permit.~~

B.

~~Every permittee, while exercising the privilege conveyed by said permit, shall carry said permit with him or her and shall exhibit the same on demand by an officer or peace officer of the Village, or by a prospective customer, and allow the information therein contained to be inspected and copied, and any failure to do so shall constitute a violation of this chapter.^[1]~~

[1]

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

§188-5 Display of license.

Any person licensed hereunder shall carry his or her license with him or her while engaged in licensed activities, and shall display such license to any officer of the Village or any person with whom he or she seeks to do business upon request.

§188-6 Prohibited Practices

The following practices are hereby prohibited:

- (1) Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment;
- (2) Calling at any dwelling or other place where a sign is clearly displayed bearing the words "No Peddlers" or "No Solicitors" or words of similar meaning;
- (3) Calling at the rear door of any dwelling place unless previously arranged;
- (4) Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises;
- (5) Misrepresenting or making false, deceptive or misleading statements concerning the quality, quantity or character or any goods or services offered for sale, the purpose of the visit, the identity of the caller or the identity of the organization represented;
 - a. A direct seller for a charitable organization shall specifically disclose what portion of the sale price of goods or services offered will actually be used for the charitable purpose for which the organization is seeking assistance, and said portion shall be expressed as a percentage of the sale price of the goods or services.

§ 188-67 Temporary suspension of permit.

Upon receipt of three documented complaints from separate Village residents concerning the behavior or conduct of a person issued a permit under this chapter during any licensing period, or for a violation of this chapter, any other ordinance, or any law, the Directed Enforcement Officer (DEO) is authorized to temporarily suspend the individual's permit. The DEO will complete an investigation of the documented complaints or violations and within five days of the suspension either make a written recommendation to the Village Board for formal action to revoke the permit, in which event the suspension shall stay in place until the recommendation is ruled upon by the Village Board, or release the temporary suspension of the permitted activity.

§ 188-78 Revocation of permit.

A.

The Village Board may at any time, for a violation of this chapter, any other ordinance, or any law, revoke any permit granted under this chapter. When a permit is revoked, no refund of any unearned portion of the permit fee shall be made. Notice of such revocation and the reason or reasons therefor in writing shall be served personally upon the person named in the application or given by mailing the same to the last given address in the application, and a copy of such notice shall be filed with the Village Clerk-Treasurer.

B.

The Village Board shall revoke the permit of any person who has been convicted within the preceding five years of, or who while holding a permit is convicted of, one or more of the following:

Crime	As defined by Wis. Stats.
Burglary	§ 943.10
Robbery	§ 943.32
Crime using a dangerous weapon	§ 939.63
Battery	§ 940.19
Mayhem	§ 940.21
Committing bodily harm	§§ 940.23 and 939.22(4) and (14)
Contributing to the delinquency of minor	§ 948.40
Enticing a small child for immoral purposes	§ 948.07
Carrying a concealed weapon	§ 941.23
Homicide	§§ 940.06, 940.08 and 940.09
Murder	§§ 940.01 and 940.02
Fornication	§ 944.15(2)
Lewd and lascivious behavior	§ 944.20
Theft	§ 943.20
Sexual assault	§ 940.225
Injury by conduct regardless of life	§ 940.23
Injury by intoxicated use of a vehicle	§ 940.25
Kidnapping	§ 940.31
Abduction	§ 948.30
Manufacture, distribution or delivery of a controlled substance	§§ 961.574, 961.575, 961.41, 961.42, 961.43 and 941.46
An attempt to commit any of the foregoing crimes	
A conspiracy to commit any of the foregoing crimes	

§ 188-89 Denial of permit.

A.

The Village Board may deny issuance of a permit if:

(1)

The applicant shall misrepresents the nature, character, or identity of a business.

(2)

The nature of the business as proposed would, in the opinion of the Village Board, violate this chapter or any other state or local ordinance or law.

(3)

The applicant shall **does** not truthfully and completely state the information requested in the application for permit and/or by this chapter.

B.

~~The Village Board shall deny the issuance of a permit to any applicant who has been convicted of a crime which would be the basis for revocation of the permit under § **188-78B** above.~~

§ 188-910 Violations and penalties.

Any person violating the provisions of this chapter shall, upon conviction thereof, be subject to the penalty provided by § **1-3** of this Code. A separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon its adoption and publication.

Approved and adopted this 17th day of October, 2017.

James F. Rafter, Village President

ATTEST:

Debra M. Baenen, Village Clerk-Treasurer

DATE OF PUBLICATION: _____

