

CHAPTER 7

BUSINESS CODE

ARTICLE I - ADMINISTRATION

7-1-1 **APPLICATIONS.**

(A) Applications for all licenses and permits required by this Chapter shall be made in writing to the Municipal Clerk in the absence of provision to the contrary.

(B) Each application shall contain:

- (1) the name of the applicant;
- (2) the permit or license desired;
- (3) the location to be used, if any;
- (4) the time covered; and
- (5) the fee to be paid.

(C) Each application shall also contain the number the Certificates of Registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the municipal officials in the issuing of the license or permit applied for.

7-1-2 **BUSINESS LICENSE REQUIREMENT.** Any and all persons, firms, companies and corporations engaged in any business or occupation from a location or locations within the Village limits of the Village of New Baden are required to procure a license to conduct said business or occupation. (**Ord. No. 737; 8-6-07**)

7-1-3 **TERM AND FORM OF LICENSE.** No license shall be granted for longer than a **one (1) year term**, and all licenses, unless otherwise provided by ordinance, shall expire on the **last day of the next April following their issue**. Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

7-1-4 **INVESTIGATIONS.**

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, within **forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection.

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise **within ten (10) days** after receiving such application or a copy thereof.

(C) The Chief of Police shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. [If a Zoning Code is in effect, the Chief Building and Zoning Official shall make or cause to be made any inspections which relate to compliance with the Zoning Code and other related regulations.] All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the Mayor that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the Mayor shall determine that the matters concerning the application are unsatisfactory, he may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the Mayor shall determine that the application is satisfactory, he shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued. (Ord. No. 674; 7-7-03)

7-1-5 FEES. The annual fee for a business license shall be **Twenty-five Dollars (\$25.00)**. Said amount shall be submitted with the registration application. This fee is non-refundable and is used solely for the administration of this Article. In the event that an applicant fails to renew the annual license prior to the termination date of the applicant's license, an additional late fee of **Fifty Dollars (\$50.00)**. (Ord. No. 737; 8-6-07)

7-1-6 TERMINATION OF LICENSES. All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1st of each year** and shall terminate on **April 30th** of the following year, where no provision to the contrary is made.

The Clerk shall notify all licensees of this Municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new license, or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

7-1-7 BUILDING AND PREMISES. No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this Municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Zoning Code and/or other applicable regulations of this Municipality.

7-1-8 CHANGE OF LOCATION. The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with.

7-1-9 LOCATION. No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the

existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

7-1-10 NUISANCES PROHIBITED.

7-1-10.1 GENERALLY. No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

7-1-10.2 UNSAFE OR UNHEALTHFUL BUSINESS.

(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

7-1-10.3 REFUSE DISPOSAL.

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of **not less than twenty (20), nor more than thirty-two (32) gallons capacity**, constructed of impervious material and sturdy construction with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.

(B) **Duty-to Provide Refuse Containers.** The occupant of every building, structure or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.

All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business or occupation to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, cafe, or retail food establishment where more than **thirty-two (32) gallons** of refuse is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

7-1-11 INSPECTIONS.

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably

necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

7-1-12 SUSPENSION; REVOCATION AND APPEAL.

(A) The Mayor is hereby authorized to suspend or revoke a business license, thereby causing the cessation of a business, when:

- (1) The business operation constitutes a clear and present danger to the public safety, health or general welfare; or
- (2) The registration application information is fraudulent, false or deceptive.

(B) If a license is suspended or revoked, the business will be notified immediately either in person or by an officer of the Village or by telephone. A follow-up written notice will be sent by certified mail. Both notifications shall include the reason or reasons that caused the suspension or revocation. A suspension or revocation shall remain in place until rescinded by the Mayor or by a successful appeal to the Village Board.

(C) An appeal of the suspension or revocation must be requested by the license holder and is allowed at either:

- (1) The next regularly scheduled Village Board Meeting; or
- (2) A special meeting, so long as the license holder is given at least **five (5) days** prior notice of the meeting.

(D) At the appeal, the Village Attorney shall present the complaint against the business and represent the Village. The license holder has the right to retain his/her own counsel, to submit evidence and to cross-examine witnesses. A simple majority vote to the Village Board is required to rescind the suspension or revocation. In case of a tie, the Mayor will cast the deciding vote.

(E) Revocation of a business license shall not preclude prosecution or imposition of other penalties for the violation of other Village ordinances. **(Ord. No. 737; 8-6-07)**

7-1-13 RESERVED.

7-1-14 LICENSE TO BE POSTED. It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

ARTICLE II - SOLICITORS

7-2-1 **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

"REGISTERED SOLICITOR" shall mean and include any person who has obtained a valid Certificate of Registration as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

"RESIDENCE" shall mean and include every separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

"SOLICITING" shall mean and include any one (1) or more of the following activities:

(A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever or;

(B) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character or;

(C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;

(D) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

7-2-2 **CERTIFICATE OF REGISTRATION.** Every person desiring to engage in soliciting as herein defined from persons within this Municipality is hereby required to make written application for a Certificate of Registration as hereinafter provided. All resident charitable, non-profit organizations in this Municipality which have been in existence for six (6) months or longer shall be exempt from the provisions of this Article.

7-2-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

(A) Name and address of present place of residence and length of residence at such address; also, business address if other than residence address; also, Social Security Number.

(B) Address of place of residence during the past three (3) years if other than present address.

(C) Age of applicant and marital status; and if married, the name of spouse.

(D) Physical description of the applicant.

(E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.

(F) Name and address of employer during the past three (3) years if other than the present employer.

(G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

(H) Period of time for which the Certificate is applied.

(I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.

(J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?

(K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?

(L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?

(M) The last three (3) municipalities where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.

(N) Also, such additional information as the Chief of Police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.

Applications for Certificates issued shall be numbered in consecutive order as filed, and every Certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States within five (5) years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

7-2-4 **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Chief of Police, 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 Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

7-2-5 **POLICY ON SOLICITING.** It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-2-6 **NOTICE REGULATING SOLICITING.** Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this Section.

(B) A weatherproof card, approximately three inches by four inches (3" x 4") in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

(C) The letters shall be at least one-third inch (1/3") in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

7-2-7 **COMPLIANCE BY SOLICITORS.** It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in Section 7-2-6 if any is attached and be governed by the statement contained on the notice.

If the notice states "ONLY REGISTERED SOLICITORS INVITED," then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, "NO SOLICITORS INVITED," then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

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

7-2-8 **UNINVITED SOLICITING PROHIBITED.** It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of Section 7-2-6.

7-2-9 **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 10:00 A.M. or after 5:00 P.M. of any weekday or at any time on a Sunday or on a State or National holiday.

7-2-10

SOLICITATIONS ON PUBLIC HIGHWAYS.

(A) **Permit.** There is hereby created a Public Highway Solicitation Permit ("Highway Solicitation Permit"). No person, organization, company or other entity ("soliciting organization") shall be allowed to solicit funds or contributions on a public highway unless a Highway Solicitation Permit is first obtained from the Village. The Village shall only issue **eight (8) Highway Solicitation Permits** in any calendar year, and no more than **two (2) Highway Solicitation Permits** may be issued to the same soliciting organization in any calendar year. On each Highway Solicitation Permit shall be listed the dates in which the soliciting organization may solicit funds or contributions upon the public highways. Each Highway Solicitation Permit shall only be valid for **two (2) consecutive days**. No Highway Solicitation Permit shall be issued for any date that is within **twelve (12) days** of the date listed on any other Highway Solicitation Permit. In the event the soliciting organization is not able to solicit on the scheduled day(s) due to rain or inclement weather, the Village may issue an alternate permit allowing the soliciting organization to solicit on an alternate date. Any alternate permit shall only be valid for **one (1) day**.

(B) **Issuance of Permit.** A soliciting organization shall only be issued a permit after the soliciting organization provides satisfactory evidence that the soliciting organization:

- (1) Is registered with the Illinois Attorney General's Office as a charitable organization as provided by "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes, Providing for Violations Thereof, and Making an Appropriation Therefor", approved July 26, 1963, as amended;
- (2) Is engaged in a statewide fund-raising activity, unless the soliciting organization is only located within the corporate limits of the Village;
- (3) Agrees to be liable for any injuries to any person or property during the solicitation which are causally related to an act of ordinary negligence of any agent, worker or volunteer of the soliciting organization. To evidence financial responsibility for such liability, the soliciting organization shall provide the Village with proof of general liability insurance, in an amount at or greater than **One Million Dollars (\$1,000,000.00)**, naming the Village as an additional insured and covering the activities contemplated by the Highway Solicitation Permit;
- (4) Maintains a registered office within the corporate limits of the Village; provided, however, that a Highway Solicitation Permit may be issued to a soliciting organization that does not maintain a registered office within the corporate limits of the Village if the application for the Highway Solicitation Permit is submitted by a member of the soliciting organization that resides within the corporate limits of the Village.

(C) **Restrictions.** The use of a Highway Solicitation Permit shall be subject to the following restrictions:

- (1) The Highway Solicitation Permit shall be available for inspection by any officer of the Village during the time that such solicitation activities are conducted. The Highway Solicitation Permit shall be made available for inspection at the location of the solicitation;
- (2) Any agent, worker or volunteer involved in the act of soliciting

- shall be at least **eighteen (18) years of age**;
- (3) All agents, workers, and volunteers involved in the act of solicitation shall wear a high-visibility traffic safety vest;
 - (4) Funds and contributions may only be solicited using collection canisters or other collection devices that are clearly and conspicuously labeled with the name of the soliciting organization;
 - (5) Solicitation shall only be permitted at the intersection of Illinois State Route 160 and Illinois State Route 161;
 - (6) At all times when engaged in the act of solicitation, all agents, workers, and volunteers must remain within **twenty-five (25) feet** of the entrance to the intersection named in the Highway Solicitation Permit;
 - (7) The soliciting organization must place an orange colored traffic control cone, not less than **twenty-four (24) inches** in height, on the center stripe of each street approaching the intersection. The cone shall be placed **twenty-five (25) feet** from the entrance to the intersection and shall be clearly visible to approaching drivers.
 - (8) The Chief of Police, or his designee, may suspend or terminate any Highway Solicitation Permit issued by the Village if he, in his sole and absolute discretion, determines that inclement weather has created a safety risk beyond the ordinary risk associated with the solicitation activities. If a permit is suspended or terminated for inclement weather, the soliciting organization may apply for an alternate permit;
 - (9) Solicitation activities may only be conducted between the hours of **8:00 a.m.** and **5:00 p.m.** from October 1 through April 30, and between the hours of **8:00 a.m.** and **7:00 p.m.** from May 1 through September 30. (**Ord. No. 865; 10-3-11**)

7-2-11 **MISREPRESENTATIVE OR FRAUD.** No licensed solicitor shall engage in the sale of merchandise of a value unreasonably less than the amount charged for the merchandise, nor shall the solicitor misrepresent the purpose of the solicitation. The solicitor shall guarantee that all persons solicited for the sale of subscriptions to magazines, books, newspapers, or other printed material shall receive the material subscribed for, and the solicitor shall in no way engage in any fraud or misrepresentation as defined by the laws of the State of Illinois.

7-2-12 **FEES.** Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

(A) **Daily License:** **\$25.00 per person per day.**

(B) **Annual License:** **\$100.00 per person per year.**

(**Ord. 2012-06-04-E; 6-4-12**) (See 65 ILCS Sec. 5/11-42-5)

ARTICLE III - PEDDLERS

7-3-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-3-2 **DEFINITION.** "Peddle" shall mean 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 this Municipality 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 of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall 'peddle' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

7-3-3 **APPLICATIONS.** A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

- (A) Name and physical description of applicant.
- (B) Permanent home and address and local address if operating from such an address.
- (C) A brief description of the business and of the goods to be sold.
- (D) Name and address of the employer, if any.
- (E) The length of time for which the right to do business is desired.
- (F) Evidence that the agent is acting on behalf of the corporation he represents.
- (G) Statement of the applicant's criminal record other than a traffic record.
- (H) The last three (3) municipalities where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

7-3-4 **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-3-5 **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to 10:00 A.M. or after 5:00 P.M. of any weekday or at any time on a Sunday or on a State or National holiday.

7-3-6 **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-3-7 **PHOTOGRAPHS.** Two (2) photographs of the applicant and such of its employees as will be used in the peddling or merchandising, taken within sixty (60) days immediately prior to the filing of the application, which pictures shall be two inches by two inches (2" x 2"), showing the head and shoulders of the applicant or its agent(s) and/or

employee(s) in a clear and distinguishing manner.

7-3-8 **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-3-9 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-3-10 **DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in Section 7-3-9.

7-3-11 **EXCLUSIONARY PROVISION.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

7-3-12 **FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

- (A) **Daily License:** **\$5.00 per person per day**

- (B) **Annual License:** **\$50.00 per person per year**

ARTICLE IV - COIN-OPERATED MACHINES

7-4-1 **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

"COIN-OPERATED AMUSEMENT DEVICE" means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pin-ball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

"OPERATOR" is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

"PROPRIETOR" is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

7-4-2 **LICENSE REQUIRED.** No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this Municipality without having first obtained the proper license therefor.

7-4-3 **APPLICATION.** Application for license shall be verified by oath or affidavit and contain the following information:

(A) The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

7-4-4 **PROHIBITED LICENSEES.** No license under this Section shall be issued to:

(A) Any person who is not a citizen of the United States.

(B) Any person who is not of good character and reputation in the community.

(C) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(D) Any person whose license issued under this Chapter has been revoked for cause.

(E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(F) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship or residency within this Municipality.

(G) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(H) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

7-4-5 **FEES.** The annual fee for such license shall be Ten Dollars (\$10.00) per year or part thereof for each coin-operated amusement device set up for operation, leased or

distributed to a proprietor.

(A) All operator's license fees shall be payable annually in advance and in no case shall any portion of said license fee be refunded to the licensee.

(B) The license period shall be for the fiscal year of the Municipality, and all applications for renewal shall be made to the Clerk not more than thirty (30) days, but no less than fifteen (15) days prior to the expiration of such license.

7-4-6 NON-ASSIGNABILITY OF LICENSE. The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

7-4-7 PLACEMENT; GAMBLING PROHIBITED.

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) Nothing in this Article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(C) Prizes and Awards Prohibited. It shall be unlawful for any person receiving a license pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play.

7-4-8 DISPLAY OF LICENSE. Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-4-9 RIGHT OF ENTRY. The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

ARTICLE V - RAFFLES

7-5-1 DEFINITIONS. Unless the context otherwise requires, the words and phrases herein defined are used in this Code in the sense given them in the following definitions:

(A) Net Proceeds means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

(B) Raffle means a form of lottery, as defined in Section 28-2, subparagraph (b) of the Criminal Code of 2012, conducted by an organization licensed under this Article in which:

- (1) the player pays or agrees to pay something of value for a chance, presented and differentiated by a number or by a combination of numbers, or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the

winning chance shall not be determined by the outcome of a publicly exhibited sporting contest. (Ord. 2017-12-04-A; 12-04-2017)

7-5-2 **DUTIES.** The Village Clerk is charged with the administration of this Article and may appoint persons to assist him in the exercise of the powers and the performance of the duties herein provided, including, but not limited to, the members of his staff, the Village Attorney, and the Chief of Police.

7-5-3 **LICENSE REQUIRED.** No person or organization shall conduct or partake in the selling of raffle chances within the limits and territory of this Village without having a license to do so issued by the Village Clerk, in a manner hereinafter provided and a valid license for such purpose as provided by this Article. Licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years immediately before making application for a license and which have had during that entire five (5) year period a bona fide membership engaged in carrying out their objectives. The aforementioned organizations shall have the meaning ascribed to them by Illinois statute. (Ord. 2017-12-04-A; 12-04-2017)

7-5-4 **APPLICATIONS FOR LICENSE.** The Village Clerk is authorized to grant and issue licenses to eligible organizations to conduct raffles and to participate in the sale of raffle tickets, within the limits and territory of the Village, upon the conditions and in the manner provided by this Article. Such license shall be in writing, signed by the Mayor and attested by the Village Clerk, with the seal of his office affixed thereto.

Prior to the issuance of a license, the applicant shall submit to the Clerk, an application, in triplicate, in writing and under oath stating:

- (A) The name and address of the organization;
 - (B) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, business, fraternal, educational, veterans or other;
 - (C) The length of time the organization has continually existed immediately before making application for a license;
 - (D) The applicant shall give the maximum retail value of all prizes or merchandise awarded by a licensee in a single raffle;
 - (E) The amount that the organization plans to charge for each raffle chance issued or sold;
 - (F) The time and location where any raffles are to be held;
 - (G) The purpose for which the proceeds of any raffles will be used;
 - (H) The name and address of the person conducting and performing the raffle, and his/her relationship with the organization;
 - (I) The last date which the applicant has applied for a raffle license;
 - (J) The area in which the organization plans to sell or issue its raffle chances;
 - (K) Whether or not the applicant has ever been convicted of a felony.
- (Ord. 2017-12-04-A; 12-04-2017)

7-5-5 **RULES FOR APPLICATIONS AND LICENSES.**

(A) The license and application for license must specify the area or areas within the licensing authority in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determination in winning chances, and the location or locations with which winning chances will be determined.

(B) The application must contain a sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization.

(C) The Village shall act on a license application within thirty (30) days from the date of application.

(D) Each such license is valid for one (1) year.

7-5-6 **PROHIBITED LICENSEES.** The following are **ineligible** for any raffle license:

(A) Any person who has been convicted of a felony.

(B) Any person who is or has been a professional gambler or gambling promoter;

(C) Any person who is not of good moral character;

(D) Any firm or corporation in which a person defined in paragraphs (A), (B) or (C) above has a propriety, equitable or credit interest, or in which such a person is active or employed;

(E) Any organization in which a person defined in (A), (B), or (C) above is an officer, director or employee, whether compensated or not;

(F) Any organization in which a person defined in (A), (B), or (C) above is to participate in the management or operation of a raffle as defined by this Article. (See 230 ILCS Sec. 15/3)

7-5-7 **RESTRICTIONS ON THE CONDUCT OF RAFFLES.**

(A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.

(B) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;

(C) No person may receive any remuneration or profit for participating in the management or operation of the raffle;

(D) A licensee may rent a premises on which to determine a winning chance or chances in a raffle only from an organization which has a license under this Article;

(E) Raffle chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license. (See 230 ILCS Sec. 15/4)

7-5-8 **RECORDS.**

(A) Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person

who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles shall report monthly to its membership, and to the Village, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of raffles for public inspection at reasonable times and places. (See 230 ILCS Sec. 15/6)

7-5-9 **TERM AND FEES.**

(A) The maximum retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed **One Million Dollars (\$1,000,000.00)**;

(B) The maximum price which may be charged for each raffle chance issued or sold shall not exceed **One Hundred Dollars (\$100.00)**;

(C) The maximum number of days during which chances may be issued or sold shall not exceed **Three Hundred Sixty Five (365) days**;

(D) Licenses issued pursuant to this Article shall be valid for **one (1) year** and may be suspended or revoked for any violation of this Article;

(E) No person or organization shall be issued more than **one (1) license** in a period of one (1) year;

(F) The manager of a raffle game shall give a fidelity bond in the sum of **Zero Dollars (\$0.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The organization may require a fidelity bond in an amount greater than the aforementioned amount;

(G) Any license issued under this Article shall be non-transferable.

(Ord. 2017-12-04-A; 12-04-2017)

ARTICLE VI – HOME KITCHEN OPERATIONS

7-6-1 DEFINITION. “Home kitchen operation” means an operation conducted by a person who produces or packages non-potentially hazardous baked goods in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member, or for sale by a religious, charitable, or nonprofit organization, stored in the residence where the baked goods are made.

7-6-2 REQUIREMENTS. In order to qualify as a home kitchen operation, the following requirements must all be met:

- (A) Monthly gross sales may not exceed \$1,000;
- (B) The baked goods are not potentially hazardous baked goods as defined in 410 ILCS 625/4;
- (C) A notice is provided to the purchaser that the product was produced in a home kitchen.

7-6-3 NOTICE. When non-potentially hazardous baked goods produced by a home kitchen operation are sold directly to the public for off -premises consumption, the notice provided to the purchaser shall be affixed to the package containing the baked goods. If such non-potentially hazardous baked goods are sold to the public as part of a religious, charitable, or nonprofit organization event, however, then the notice provided to the purchaser may be given on a placard placed at the point of sale.

7-6-4 INSPECTIONS. Upon receipt by the home kitchen operator or the Village of a complaint involving products produced in a home kitchen operation, or upon the outbreak of a disease that may be connected to a home kitchen operation, the Clinton County Health Department shall be notified of such complaint on or before the next business day. Further, the Clinton County Health Department shall have authority to inspect the home kitchen operation involved following any such complaint. **(Ord. No. 2015-08-17-B; 08-17-2015)**