

Chapter 70 - SOLICITORS¹*Footnotes:*

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Editor's note- Ord. No. 2016-52, § 1, adopted September 27, 2016, amended Ch. 70 in its entirety to read as herein set out. Former Ch. 70, §§ 70-1, 70-2, 70-46-70-51, 70-61-70-63, 70-76-70-83, pertained to peddlers and solicitors, and derived from Code 1965, § 23-1-23-11, 23-13-23-17, 23-19; Ord. No. 1993-43, § 1, 9-28-93; Ord. No. 1994-56, § 1, 9-27-94; Ord. No. 2002-38, § 2, 7-23-02; Ord. No. 2010-38, § 1, 5-25-10.

Cross reference- Businesses, ch. 22.

ARTICLE I. - IN GENERAL**Sec. 70-1. - Purpose.**

It is the purpose of this chapter to protect the health, safety, welfare and privacy of the citizens of the Village; to ensure that the Police Department is aware of the identities of persons who will be soliciting and the locations and time periods during which such activities will occur; and to protect the Village's residents in their homes from unwanted disturbances and intrusions.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the indicated meanings, except where the context clearly indicates a different meaning:

Canvasser means any person who makes or takes surveys, or delivers any handbill, flyer, circular, sample or other article not within the guarantees of the First Amendment to the Constitution of the United States to any person within any residence or apartment, or from any person upon any street, highway, alley or sidewalk within the Village.

Charitable solicitation or *professional fundraising* means the solicitation of funds made on behalf of any charitable organization through the use of canisters, vending machines, letter writing appeals, etc., upon the public right-of-way.

Charitable solicitor means a solicitor who, on behalf of a charitable organization approved by the Village Manager's office, makes a request for donations but does not receive directly or indirectly any financial remuneration for such efforts, or whose activities are within the guarantees of the First Amendment to the Constitution of the United States.

Fund drives, tag days and tag day events means those days on which it shall be lawful for charitable organizations to solicit funds for charitable purposes upon the public right-of-way of the Village through means of distributing emblems, flowers or other merchandise, the possession of which indicates a contribution to such fund.

Professional fundraiser/solicitor means any person who, for compensation or other consideration, conducts, manages or carries on any solicitation drive/campaign or solicits contributions for charitable purposes or on behalf of a charitable organization.

Registered solicitor means a person who has obtained a valid Solicitor/Canvasser Permit and is in possession of said permit while engaging in soliciting/canvassing.

Residence means every separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.

Soliciting/Canvassing means going upon any premises or residence and ringing the doorbell, knocking or creating any sound in any other manner calculated to attract the attention of the occupant for the purpose of securing an audience with the occupant thereof and engaging in soliciting or canvassing.

Solicitor means any person who sells, offers to sell, takes orders for, or seeks to obtain orders or sales for any goods, wares, merchandise, foodstuffs, insurance, publications, subscriptions or services of any kind, character or description whatsoever from persons within the Village, including, but not limited to, any person within any residence or apartment, or from any person upon any street, highway, alley or sidewalk within the Village.

Tagging means soliciting funds for charitable organizations for fund drive, tag days or tag day events.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-3. - Penalties.

Any person who violates any provision of this chapter or who fails to comply with any notice, directive or order issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine as specified in Appendix E Penalties of the Niles Code of Ordinances for each separate offense, and each day during which any violation of the provisions of the chapter shall occur or continue shall be a separate offense.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-4. - Reserved.

ARTICLE II.- DOOR-TO-DOOR SOLICITATION

Sec. 70-5. - Hours of soliciting.

It is hereby declared to be unlawful and shall constitute a nuisance for any solicitor or canvasser to engage in soliciting or canvassing prior to 9:00 a.m. or after 7:00 p.m. Monday through Friday; prior to 9:00 a.m. or after 5:00 p.m. on Saturday; or at any time on Sundays or national holidays.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-6. - Notice regulating soliciting; rights of residents.

Notwithstanding the provisions of this article providing for the registration of solicitors and canvassers, it is the Village's policy that the occupant(s) of a residence shall make the determination of whether soliciting shall or shall not be allowed on their premises.

- (a) Every residential property owner shall have the right to prohibit all solicitors and canvassers from being on their premises by posting on or near the main entrance door to the residence a notice upon which is printed "No Solicitors," "No Solicitors Invited," "No Trespassing" or any other similar notice indicating in any manner that the occupants of such premises desire not to be solicited or otherwise disturbed.
- (b) Such notice so exhibited shall constitute sufficient notice to any solicitor and/or canvasser of the determination by the occupant of the residence of the information contained thereon.
- (c) For the purpose of uniformity, the Village may provide a weatherproof decal bearing a notice of the type herein described to persons requesting such decals.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-7. - Duty of solicitors.

- (a) It shall be the duty of every solicitor and canvasser, upon going onto any premises in the

municipality upon which a residence is located, to first examine the notice provided for in Sec. 70-6.

- (b) If a "No Solicitors," "No Solicitors Invited," "No Trespassing" or any other similar notice is posted, the solicitor or canvasser, whether registered under the provisions of this chapter or not, shall immediately and peacefully depart from the premises. Any solicitor or canvasser 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.
- (c) It is hereby declared to be unlawful and shall constitute a nuisance for any solicitor or canvasser to engage in soliciting or canvassing in defiance of the "No Solicitors," "No Solicitors Invited," "No Trespassing" or any other similar notice posted at the residence in accordance with the provisions of Sec. 70-6.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-8. - Exemptions.

- (a) Organizations within the guarantees of the First Amendment to the Constitution of the United States shall be permitted to solicit/canvass door-to-door without further registration.
- (b) A person age sixteen (16) and under, who is participating in fundraising programs for, or sponsored by, a public or private elementary or high school or bona fide children's organization including, but not limited to, Boy Scouts, Girl Scouts or youth sports, is not required to obtain a Solicitor/Canvasser Permit.

It is hereby declared to be unlawful and shall constitute a nuisance for any organization within the guarantees of the First Amendment to the Constitution of the United States to engage in soliciting or canvassing prior to 9:00 a.m. or after 7:00 p.m. Monday through Sunday.

Regardless of the exemptions granted herein, any local charitable, civic, religious, fraternal or educational organization shall comply with all other provision of this ordinance.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-9. - Application.

Every canvasser, charitable solicitor, solicitor, and/or professional fundraiser/solicitor, desiring to travel door-to-door within the Village of Niles is required to make written application for a Solicitor/Canvasser Permit as provided in this chapter.

- (a) *Contents.* Each person seeking to solicit in the Village of Niles shall complete an application for a Solicitor/Canvasser Permit provided by the Village Manager's office. The applicant shall provide true and accurate information requested including name, current address, date of birth, driver's license or State ID number, Social Security number and any and all other personal identifying information and/or business information deemed necessary to process the application, conduct a background check and determine eligibility for a Solicitor/Canvasser Permit. Each applicant will make payment to the Village as referenced in Appendix D Fee Schedule of the Niles Code of Ordinances to be used to conduct a background check on each applicant.
- (b) *Records.* The Village Manager's office shall keep an accurate record of every application received, all related information, all permits issued and all applications denied under the provisions of this chapter.
- (c) *Notification.* The Village Manager's office shall notify the Chief of Police or his/her designee of any and all Solicitor/Canvasser Permits issued.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-10. - Issuance, denial and revocation.

- (a) The Solicitor/Canvasser Permit shall state the name of the solicitor/canvasser, the company name, the date of issuance, the permit number and the expiration date.
- (b) The Solicitor/Canvasser Permit issued pursuant to this chapter shall expire ninety (90) consecutive calendar days after issuance.
- (c) The permit holder must carry the Solicitor/Canvasser Permit at all times when soliciting.
- (d) The Solicitor/Canvasser Permit does not imply endorsement or approval by the Village of Niles of the goods and/or services represented by the solicitor/canvasser.
- (e) No permit shall be issued to any person who has been convicted of a felony, or any crime involving moral turpitude or truth and veracity, under the laws of the state, or any other state or federal law of the United States, within ten 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 or the ordinance of any other state municipality regulating soliciting within ten years of the date of the application; nor to any person whose Solicitor/Canvasser Permit issued under this chapter has previously been revoked within ten years of the date of the application.
- (f) Any permit issued under this article shall be revoked by the Village Manager's office if the

holder of the certificate is convicted of a violation of any of the provisions of this article, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this article. Immediately upon such revocation, written notice thereof shall be given by the Village Manager's office to the holder of the permit in person or by certified U.S. Mail, addressed to the address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-11. - Reserved.

ARTICLE III. - CHARITABLE SOLICITATIONS - FUND DRIVES, TAG DAYS, TAG DAY EVENTS

Sec. 70-12. - Application and requirements for participation.

Every charitable organization who conducts or shares in the proceeds of any such fund drive, tag day, tag day event or other means of solicitation shall conform to the following requirements:

- (a) *Contents.* Each organization seeking to conduct a fund drive, tag days, tag day events or other means of solicitation in the Village of Niles shall complete an application provided by the Village Manager's office. The applicant shall provide true and accurate information requested including the organization's name, address, State of Illinois Charter # and any and all other information deemed necessary to determine eligibility and process the application.

The organization shall submit, in connection with its application, a Certificate of Liability Insurance showing that the organization has obtained insurance providing coverage for bodily injury liability in the amount of \$1,000,000 for any individual and \$1,000,000 for any occurrence. The policy shall name the Village of Niles as an additional insured.

- (b) Any solicitor, or organization represented by the solicitor, tagging on the highway or any public right-of-way is liable for any injuries to any person or property during the tagging, which is causally related to an act of ordinary negligence of the solicitor or the tagging organization.
- (c) The organization shall be and shall have been for not less than one year prior to its

application under this article, a corporation organized under the laws of the state and shall have been actually engaged during such period in charitable and philanthropic work for which it was chartered. This subsection does not apply to organized churches.

- (d) *Records.* The Village Manager's office shall keep an accurate record of every application received, all related information, all permissions issued and all applications denied under the provisions of this chapter.
- (e) *Notification.* The Village Manager's office shall notify the Chief of Police or his designee of any and all scheduled fund drives, tag days and tag day events.
- (f) The Village Manager's office may formulate reasonable rules and regulations as it may deem necessary for the purpose of carrying out the provisions of this division and properly controlling the conduct of any such tag day.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-13. - Identification of organization during solicitation.

Every person who solicits funds on behalf of an organization for a fund drive, tag day or tag day event upon the public right-of-way shall wear a uniform, article of clothing, or such other emblem, button, sign or insignia which, by its nature or design, fully and clearly informs the general public of the identity of the organization soliciting the funds.

Each solicitor shall have a container on which is provided or affixed the name of the organization, and such container shall be completely sealed except for a slot for deposit of currency or coins.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-14. - Limitations.

Fund drives, tag days, tag day events and other means of charitable solicitation upon the public right-of-way shall be limited as follows:

- (a) Any person engaged in the act of tagging shall be eighteen (18) years of age or more.
- (b) Each solicitor engaged in the act of tagging shall wear a high visibility vest or other high-visibility clothing.
- (c) A tag day event shall consist of no more than three consecutive calendar days, and no

more than two consecutive weekends.

- (d) Only one tag day may be conducted on any given day.
- (e) If more than one application for the same date is received, preference will be given to the qualifying organization on a first come, first-served basis.
- (f) Other means of collection are only allowed for a specified amount of time and only after the organization has met the requirements under this article.

(Ord. No. 2016-52, § 1, 9-27-16)

Sec. 70-15. – Obstructing or hindering traffic prohibited.

- (a) Any person soliciting funds on behalf of any organization who shall willfully or unnecessarily hinder, obstruct or delay, or attempt to willfully or unnecessarily hinder, obstruct or delay, any person in lawfully driving or traveling along or upon any street or thoroughfare within the Village shall be guilty of a violation of this Code.
- (b) For the safety of the solicitors, the safety of motorists, and the orderly flow of traffic, no soliciting shall be permitted at the following intersections:
 - Milwaukee Avenue and Greenwood Avenue
 - Milwaukee Avenue and Golf Road
 - Milwaukee Avenue and Dempster Street
 - Milwaukee Avenue and Howard Street
 - Milwaukee Avenue and Harlem Avenue
 - Lehigh Avenue and Touhy Avenue

(Ord. No. 2016-52, § 1, 9-27-16)