

ORDINANCE No. 2103-21

AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF
HAWTHORN WOODS – TITLE 3, ARTICLE 3-4B – SOLICITORS; AND TITLE 11, SECTION
11-1-1.F—GENERAL FEES AND CHARGES

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Lake County, Illinois, as follows:

SECTION ONE: That Title 3, Article 3-4B of the Village Code of the Village of Hawthorn Woods, entitled "SOLICITORS", is hereby deleted in its entirety, and in lieu thereof, the following language shall be substituted:

..."3-4B-1: PURPOSE:

It is the declared purpose of this subchapter to prevent crime and protect the health and safety of Village citizens; to ensure that the Police Department is aware of the number and identity of persons who will be soliciting for commercial, religious and charitable purposes and the geographic area and time periods in and during which such activities will occur within the Village; and to prevent the imitation of religious and charitable purposes and organizations by unscrupulous individuals who would defraud the public and cause religious and charitable purposes and organizations to be endangered by the suspicions engendered by such practices, and to protect the welfare, safety, peace, comfort and convenience of the public in their homes and traveling upon the streets, highways and sidewalks within the Village.

3-4B-2: DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARITABLE: The words patriotic, philanthropic, social services, welfare, benevolent, educational, civic or fraternal, either actual or purported.

COMMERCIAL SOLICITATION: Any one or more of the following activities:

- 1) The sale of, or seeking to obtain orders for the purchase of goods, wares, merchandise, food stuff or services of any kind, character or description, for any kind of consideration whatever;
- 2) The sale of, or seeking to obtain prospective customers for any application or purchase of insurance of any type or kind or character; or
- 3) The sale of, or seeking to obtain subscriptions to books, magazines, periodicals, newspapers or any other type or kind of publications.

CONTRIBUTIONS: Alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property.

PERSON: Any individual, firm, co-partnership, corporation, company, association or joint stock, association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

RELIGIOUS and RELIGION: Shall not mean and include the word “charitable”, as herein defined, but shall be given their commonly accepted definitions.

RELIGIOUS OR CHARITABLE SOLICITATION:

- 1) The request, by a person on sidewalks, and at residences within the Village, directly or indirectly of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a religious or charitable purpose as those purposes are defined in this subchapter. These words shall also mean and include the following methods of securing

money, credit, property, financial assistance or other thing of value on the plea or representation that it will be used for a religious or charitable purpose as herein defined:

- a) Any oral or written request or exchange of religious literature for money or other thing or value;
- b) The distribution, circulation, posting or publishing of any handbill, written advertisement or publication;
- c) The public making of any announcement concerning an appeal, assemblage, athletic or sports event, bazaar benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or social gathering to be held within the village, which the public is requested to patronize or to which the public is requested to make a contribution for any religious or charitable purpose connected therewith;
- d) The sale of, offer or attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket or other thing in connection with which any appeal is made for any religious or charitable purpose or where the name of any religious or charitable person is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any religious or charitable purpose.

- 2) A solicitation, as defined herein, shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale referred to in this section.

RESIDENCE: Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

3-4B-3: SOLICITATION PERMIT; REQUIRED:

- (A) Every person desiring to engage in commercial, charitable or religious solicitation as defined in this subchapter from persons in residences, or on sidewalks located in the Village, except for a merchant conducting a sale on the sidewalk immediately adjacent to his or her place of business, is hereby required to make written application for a solicitation permit as hereinafter provided, and obtain such permit prior to engaging in solicitation within the Village.
- (B) Application for solicitation permits shall be made upon a form provided by, and shall be submitted to, the Village Clerk, and shall be accompanied by such other documentation as is required herein.
- (C) All statements made by the applicant upon the application or in connection therewith shall be under oath.
- (D) The Village Clerk and the Chief of Police shall cause to be kept in their offices an accurate record of every application received and acted upon, together with all other information and date pertaining thereto, and copies of all solicitation permits issued under the provisions of this subchapter.
- (E) No solicitation permit permitting door-to-door residential solicitation shall be issued to any person who has been convicted of the commission of a felony under the laws of the

state or any other state or federal law of the United States, or misconduct which constitutes a Class A misdemeanor under the state law, within five years of the date of the permit application. No solicitation permit shall be issued to any person who has been convicted of a violation of any of the provisions of this subchapter, nor to any person whose solicitation permit issued hereunder has previously been revoked, as herein provided, for a period of one year from the date of such conviction or revocation.

3-4B-4: SOLICITATION PERMIT; ISSUANCE, REVOCATION AND RENEWAL:

(A) The Village Clerk or designee, within seven business days of filing of the application, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant is not entitled to a permit, pursuant to the provisions of this chapter or if the application does not contain all of the information and documentation required in this section. Endorsement shall be made by the Village Clerk on the application of the reason for the denial of the application. If the applicant has complied with all the provisions of this code, the solicitation permit shall be issued forthwith. If the application is denied, the license fee shall be deemed to have covered the cost of investigation and shall not be returned.

(B) (1) A commercial solicitation permit shall be a plastic-encased pin-on card, approximately two inches by four inches, containing a full facial photograph of the solicitor which photograph shall be supplied by solicitor, the name of the soliciting company, the dates solicitation shall occur in different geographic areas of the Village and the effective dates of the permit, in easily readable form. All permits shall bear the name of the Village and the signature of the Village Clerk or designee designated to examine applications for and issue such permits.

(2) Each person engaged in commercial solicitation shall prominently display the solicitation permit issued hereunder on his or her person while so soliciting within the village.

(C) A charitable or religious solicitation permit shall state the name and address of the charitable or religious organization, the names and addresses of the persons who will conduct the solicitation, and the dates during which such solicitation will occur within an indicated area. The permit shall bear the name of the village and the signature of the Village Clerk or designee designed to examine applications for and issue such permits. Each individual soliciting under a charitable or religious permit shall prominently display while soliciting a plastic-encased pin-on card, approximately two inches by four inches, containing a full facial photograph of the solicitor, which photograph shall be supplied by the solicitor, the name of the charitable or religious organization involved, the name of the solicitor and the effective dates of the permit in easily readable form. The card shall bear the name of the village and the signature of the Village Clerk or designee designated to examine applications for and issue such permits. In addition, each person engaged in charitable or religious solicitation shall have on his or her person a copy of the permit issued herein while so soliciting within the Village and shall produce same for examination when so requested by any person.

(D) Any solicitation permit issued hereunder shall be revoked by the Village Clerk of the holder of the permit or anyone soliciting under the permit is convicted of a violation of any of the provisions of this subchapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a solicitation permit under the terms of this subchapter. Immediately upon such revocation, written notice thereof shall be given by the Village Clerk to the holder of the permit in person or by United

States mail, return receipt requested, addressed to his or her residence address set forth in the application. The permit shall become null and void upon the first to occur of the follows:

(1) Actual notice of revocation; and/or

(2) Return of the return receipt of the mailed notice, whether or not delivered to the permit holder personally.

(E) Upon expiration of a solicitation permit, the holder shall be entitled to renew his or her permit; provided that, the application for renewal continues to satisfy all conditions and requirements necessary to obtain an original permit and provided any changes in the information originally submitted in the initial application, if any, are made. The application for a renewal of a solicitation permit shall also pay the fee required for a renewal permit.

3-4B-5: PERMIT APPLICATIONS; CONTENTS:

(A) *Commercial solicitation permits.* An application for a commercial solicitation permit shall contain the following information regarding the applicant:

- 1) Name and address of present place of residence, and length of residence at such address;
- 2) Address of place of residence during the past three years, if older than present address;
- 3) Make, model, color of car and license number of applicant's automobile used during soliciting;
- 4) Name and address of the person, firm, corporation or association with whom the applicant is employed or represents and the length of time of such employment or representation;
- 5) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;

- 6) Starting date and termination date of which the permit is to be used, provided that the maximum time period for which the permit shall be issued shall not exceed 90 days;
- 7) Information as to whether a solicitation permit has been previously issued to the applicant, and if so, whether the permit was ever revoked;
- 8) Information as to whether the applicant has ever been convicted of a violation of any of the provisions of this subchapter; and
- 9) Information as to whether the applicant has ever been convicted to the commission of a felony under the laws of the state or any other state or federal law of the United States, or misconduct which constitutes a Class A misdemeanor under state law, within five years of the date of the permit application.

(B) *Charitable solicitation permits.* An application for a charitable solicitation permit shall include or be accompanied by the following:

- 1) The name of the organization and the name under which it intends to solicit contributions;
- 2) The name and address of the person in charge of solicitation in the Village;
- 3) The names and addresses of all persons who will solicit contributions in the Village;
- 4) Make, model, color of car and license number of applicant's automobile used during soliciting;
- 5) The dates and times of day such solicitations are to be made and the geographic area in the Village wherein such solicitation shall be conducted at a particular time and day; provided that, the maximum time period for which the permit shall be issued shall not exceed 90 days; and, provided that, permit renewals shall not exceed 30 days;
- 6) A written statement of recent date by the Attorney General of the state that the organization is in compliance with the provisions of "An Act to Regulate Solicitation and Collection of

Funds for Charitable Purposes,” Ill. Rev. Stat. Ch. 33, § 5101, and such statute as it may hereafter be amended; and

7) A written statement from the Internal Revenue Service that the organization is a tax exempt organization under the Internal Revenue Code of the United States, § 501(c)(3).

(C) *Religious solicitation permit.* An application for a religious solicitation permit shall include or be accompanied by the following:

1) The name and address or headquarters of the religious organization making the application;

2) The names and addresses of all the persons who will be making the solicitations;

3) Make, model, color of car and license number of applicant’s automobile used during soliciting;

4) The dates and times of day such solicitations are to be made and the geographic area in which the solicitation will occur within the Village at a particular time and day; provided that, the maximum time period for which the permit shall be issued shall not exceed 90 days; and, provided that, permit renewals shall not exceed 30 days; and

5) A letter from the Internal Revenue Service stating that the organization is a tax exempt organization under the Internal Revenue Code of the United States, § 501(c)(3).

3-4B-6: PERMIT APPLICATION; FEES:

(A) *Original.* The fee to be charged for an original solicitation permit shall be as set forth in subsection 11-1-1.F of this Code.

(B) *Renewal.* The fee to be charged for the issuance of a renewal solicitation permit shall be as set forth in subsection 11-1-1.F of this Code.

(C) *Religious solicitation.* No fee shall be charged for a religious solicitation permit or the renewal thereof.

3-4B-7: VILLAGE POLICY ON SOLICITING AND TRESPASSING:

It shall be the policy of the governing body of the municipality that the occupant or occupants of any residence located within the Village shall make a determination of whether solicitors or any person shall be or shall not be invited to their respective residences. Any person or solicitor who is not, pursuant to the provisions contained in this chapter, invited onto the premises of any residence or who has obtained entrance to such premises and does not leave the same, upon being so requested by the occupant or occupants of such premises, shall be deemed a trespasser.

3-4B-8: NOTICE REGULATING SOLICITING:

(A) Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this subchapter shall give notice of the determination by the occupant of the refusal of invitation to solicitors to any residence by displaying a card upon or near the main entrance door to the residence, containing such language as “No Solicitors,” “No Solicitors Invited” or such other language as would indicate that solicitors are not to enter or engage in solicitation on the premises.

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

3-4B-9: DUTY OF SOLICITORS TO OBEY NOTICE OR TO LEAVE WHEN REQUESTED:

(A) It shall be the duty of every solicitor, upon going onto any premises in the Village upon which a residence is located, to first examine the notice provided for in this chapter, if any is attached, and be governed by the statement contained hereon. If the notice states “No Solicitors” or “No Solicitors Invited” or other language as would indicate that solicitors

are not to enter or engage in solicitation on the premises, the solicitor shall immediately and peacefully depart from the premises.

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

3-4B-10: UNINVITED SOLICITORS PROHIBITED:

It shall be unlawful and shall constitute a nuisance and a trespass for any person to go upon any premises and ring the doorbell upon or near the 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 occupant thereof and engage in commercial, religious or charitable solicitation as defined in this subchapter, in defiance of the notice exhibited at the residence in accordance with the provisions of this chapter.

3-4B-11: TIME LIMIT ON SOLICITING:

- (A) It shall be unlawful and shall constitute a nuisance for any person to go about any residence and ring the door bell, 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 commercial or charitable solicitation, as defined in this subchapter, at any time on a Sunday or on a state or national holiday; or before the hour of 9:00 a.m., or after the hour of 8:00 p.m. Religious solicitation is permitted on all days of the week, but only during the hours set forth in this subchapter.
- (B) It shall be unlawful to engage in commercial, charitable or religious solicitation on sidewalks or other public places within the village before the hour of 9:00 a.m. or after the hour of 8:00 p.m.

3-4B-12: SOLICITING ON HIGHWAYS OR STREETS:

Solicitation of charitable contributions on highways within the Village shall be permitted; provided, however, that all such activity shall be conducted in strict conformity with and shall be limited to that activity permitted under the provisions of the Illinois Vehicle Code paragraph 5/11-1006(c) and this Village Code.

3-4B-13: APPEAL OF PERMIT DENIAL OR REVOCATION:

- (A) The Village Chief Operating Officer shall hear appeals on the denial of an application for a solicitation permit or revocation of a permit by the Village Clerk. A written appeal must be filed in the Village Chief Operating Officer's office within 21 days after the date of denial of the application or revocation of the permit by the Village Clerk and shall contain a specific request for or waiver of a hearing before the Village Chief Operating Officer.
- (B) Where a hearing is waived, the appealing party shall submit what documentation it desires to have the Village Chief Operating Officer consider with the written appeal, and the Village Chief Operating Officer shall render a decision within 14 days of the filing of the written appeal.
- (C) If a hearing is requested, the Village Chief Operating Officer shall schedule a hearing to be held within 30 days of receipt of the written appeal. The appealing party shall have the right to file additional documents, amend the written appeal and to appear at such hearing in person, or by attorney, or otherwise to examine and cross-examine witnesses.
- (D) The Village Chief Operating Officer shall not be bound by the rules of evidence prevailing in the courts of law, but shall, in ascertaining the conditions and practices involved in the decision appealed, take into account all reliable, probative and substantial evidence produced at the hearing relating to the denial of the application or revocation of the permit.

(E) The appealing party may supply, at its own cost, a court reporter.

(F) The written decision of the Village Chief Operating Officer shall be made available to the appealing party not later than ten days after the hearing on the appeal is concluded.

3-4B-14: FALSE APPLICATION:

It shall be unlawful for any person to file an application for permit which contains false, misleading or untrue information.

3-4B-15: ADDITIONAL REQUIREMENTS:

Nothing contained in this subchapter shall release or relieve any person from complying with any additional license requirements established by the Village.

3-4B-16: SEVERABILITY:

If any phrase, sentence, division or section of this subchapter shall be found invalid, this shall not invalidate the remaining terms and conditions of the subchapter which shall then still remain in full force and effect. Any ordinances or any provisions thereof in conflict with the terms of this subchapter are hereby repealed.

3-4B-17: PENALTY:

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to Section 1-4-1 of this code of ordinances.

(B) Any person, firm or corporation violating any provision of this chapter shall be fined not less than \$100, nor more than \$750, and each day upon which a violation occurs or continues shall be considered a separate violation. In addition, any cost of collection of fines or other amounts due to the village under this division (B) may be assessed in accordance with Section 1-4-1 of this code of ordinances.

(C) Any person, firm or corporation found guilty of committing a violation of this chapter shall be subject to a fine of not less than \$100, nor more than \$750, and each separate violation hereof shall be considered a separate offense hereunder. In addition, any cost of collection of fines or other amounts due to the village under this section may be assessed in accordance with this code of ordinances. Further, the village may seek and obtain injunctions against persons violating the terms and conditions of this chapter and shall not otherwise be limited in remedies.”

SECTION TWO: That Title 11, Subsection 11-1-1.G of the Village Code of the Village of Hawthorn Woods, entitled “General Fees and Charges” is here by amended by adding the following language:

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| ...”17. Solicitation permit - original | \$60 per person |
| 18. Solicitation permit – renewal | \$40 per person” |

SECTION THREE: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, superseded by this Ordinance.

SECTION FOUR: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication in pamphlet form as provided by law.

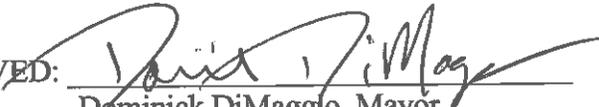
The foregoing Ordinance was adopted by a roll call vote as follows:

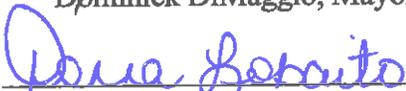
AYES: Kaiser, Bayr, Riess, McCarthy, Rycroft

NAYS: 0

ABSTENTIONS: 0

ABSENT: David

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

PASSED: July 26, 2021

APPROVED: July 26, 2021

PUBLISHED: July 27, 2021