

Chapter 5.34 - LICENSING AND REGULATION OF SOLICITORS

Sections:

5.34.010 - Definitions.

The following definitions shall apply to this chapter:

"Applicant" means any person that files an application for a solicitation permit provided by this chapter.

"Charitable" or "charitable purpose" means and includes the words patriotic, philanthropic, social services, welfare, benevolent, educational, civic or fraternal, either actual or purported.

"Charitable organization" means any benevolent, philanthropic, patriotic, or eleemosynary entity or one purporting to be such for solicitation and collection of funds for charitable purposes, including any local, county, or area division within this state of such charitable organization.

"Charitable solicitation" means solicitation engaged in or for a charitable purpose.

"Commercial purpose" means the means of or relating to the carrying on of a business for profit.

"Commercial solicitation" means solicitation engaged in for a commercial purpose.

"Contribution" means the promise or grant of any money or property of any kind or value, including the promise to pay or to give anything of value including, but not necessarily limited to, alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property, financial assistance or other thing of value.

"Do not solicit list" means a list of names and addresses of individuals in the Village of North Aurora who have requested in writing the placement of their residences on a list of people who do not want to be solicited at their residences, which list shall be maintained and published for purposes of informing the general public of the individuals' intention.

"Person" means any individual, firm, co-partnership, partnership, corporation, company, association, church, religious sect, religious denomination, society, organization, league, trust or any combination of the foregoing.

"Political solicitation" means solicitation engaged in for the purpose of lobbying, campaigning, promoting, advancing, espousing or benefiting a political cause, party or candidate for political office.

"Premises" means all separately addressed places of business, residences or other locations in which persons live, work or otherwise occupy in the village.

"Religious" or "religious purpose" means the means of or relating to an organized religion or religious group or identifiable and definable set of religious beliefs or other ideology.

"Religious solicitation" means solicitation engaged in for a religious purpose.

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

"Solicitation" means communicating with another person without invitation for a specific commercial, charitable, religious, political or other purpose by means of:

1. In-person contacts on streets, highways, sidewalks and at residences within the village; or
2. Distribution of written material, including the placement or delivery of such materials at the premises or on any property belonging to a third person.

Solicitation does not include the activity of persons who sell food or beverages from a vehicle or wheeled cart and allow third parties to approach at their own discretion.

"Solicitor" means a person who engages in solicitation as defined in this chapter.

"Village" means the corporate boundaries of the Village of North Aurora.

(Ord. 08-07-14-03 § 1; Ord. 06-04-24-01 § 1 (part))

(Ord. No. 16-12-05-12, § 1, 12-5-2016)

5.34.020 - Solicitation permit required.

It is unlawful for any person to engage in commercial solicitation in the village without having first applied for and obtained a valid, written solicitation permit from the North Aurora chief of police except as provided in Section 5.34.030 of this chapter. Examples of activities for which solicitation permits shall be required include, but are not necessarily limited to, the following:

- A. To sell, offer or attempt to sell, or request or attempt to obtain orders for the purchase or transfer of goods, wares, merchandise, foodstuffs, consulting services or services of any kind, character or description, for any kind of consideration whatsoever;
- B. To sell, offer or attempt to sell, or request or attempt to obtain prospective customers for any application or purchase of insurance of any type, kind or character;
- C. To request or obtain or attempt to request or obtain contributions, whether in exchange for consideration or not; or
- D. To promote, market or advance any commercial purpose.

(Ord. 06-04-24-01 § 1 (part))

5.34.030 - Solicitation permit exemption.

- A. Persons engaging in the following activities shall be exempt from the solicitation permit requirement:
 - 1. Charitable solicitation, including solicitation for the benefit of local elementary, junior high, or high school or for the benefit of a local community organization, such as scouts and little leagues, and solicitation for the benefit of a local nonprofit organization established for the benefit of the community, community schools, community projects, and for other similar purposes;
 - 2. Political solicitation;
 - 3. Religious solicitation;
 - 4. Solicitation for the purchase of or subscription to books, newspapers, magazines, journals, periodicals, and other publications.
- B. The distribution of handbills, flyers, brochures, pamphlets, leaflets, papers, and other literature and written materials, shall be exempt from the permit requirement unless the persons distributing the handbills, flyers, brochures, pamphlets, leaflets, papers, etc., engages the persons being solicited in conversation about the subject matter of the pieces being distributed; and, in that event, such persons shall be subject to the solicitation permit requirements for the solicitation unless the solicitation falls within the exempt categories described in subsection A of this section.
- C. All persons who are exempt from the solicitation permit requirement are nevertheless subject to the nuisance and trespass restrictions contained in Section 5.34.060 of this chapter.

(Ord. 06-04-24-01 § 1 (part))

5.34.040 - Solicitation permit application.

- A. Every person required to obtain a solicitation permit shall make a written application for a solicitation permit, pay the solicitation permit fee and obtain a solicitation permit prior to engaging in solicitation within the village.
- B. Application for the solicitation permit shall be made on the form provided by the village and shall be submitted to the village chief of police ten (10) days prior to the date on which the solicitation is to begin and shall be accompanied by the proper documentation necessary to complete the application. The applicant shall truthfully state in full the following information requested on the application:
 - 1. Full name as it appears on a driver's license, state ID, social security card or birth certificate, birth date, mailing address and telephone number of the individual

- person who will be engaged in the proposed solicitation;
2. Present address and address of places of residence during the past three years, if other than present address;
 3. Age of applicant and marital status; if married the name of spouse;
 4. Physical description of the applicant, including sex, height, weight, hair color and eye color;
 5. Name, address and telephone number of the person, firm, corporation or association by whom or on behalf of whom the applicant is employed, sponsored, promoting or conducting the proposed solicitation and the length of time of such employment or association;
 6. Name and address of present employer and of all employer(s) during the past three years, if other than the present employer;
 7. The nature of the business or activities conducted by the person or organization on whose behalf the proposed solicitation will be conducted;
 8. A description of the nature and purpose of the proposed solicitation;
 9. Period of time for which the permit is applied, including the beginning date, hours and expected duration of the proposed solicitation;
 10. The date or approximate date of the latest previous application for permit under this chapter, if any;
 11. Whether a solicitation permit issued to the applicant under this chapter or by any other issuing agency has ever been revoked;
 12. Whether the applicant ever been convicted of a violation of any of the provisions of this chapter or the ordinance or laws of any other state or municipality regulating solicitation;
 13. Whether the applicant has ever been convicted of the commission of a felony and/or any crime involving moral turpitude under the laws of this state or any other state or federal law of the United States;
 14. The full name, mailing address and telephone number of at least one reputable person, not related to, affiliated with, or employed by the person who will be engaged in the proposed solicitation;
 15. If more than one solicitor will be soliciting on behalf of a person or organization, then the name(s), address(es), and telephone number(s) of the person(s) who will be in direct charge of the solicitors on behalf of the person or organization;
 16. Such additional information and any documentation as the chief of police may deem necessary to process the application.
- C. A fee of twenty-five dollars (\$25.00) shall be charged for every solicitation permit application to cover the cost of processing the application.

(Ord. 06-04-24-01 § 1 (part))

5.34.050 - Group solicitation.

When any solicitation is conducted by an organized group, the group shall appoint a group representative who shall provide to the police department, before 9:00 a.m. on the day of the solicitation, a list of names of the solicitors and the geographic area of the village in which the solicitation will be conducted. This requirement does not supersede the requirement that each individual must obtain a separate solicitation permit as provided in Section 5.34.040 of this chapter.

(Ord. 06-04-24-01 § 1 (part))

5.34.060 - No solicitation signs, do not solicit list and trespass.

- A. Any owner, lessee, invitee or lawful occupant of a residence may prohibit solicitation by posting prominently on the front door or primary door to the residence, a sign that states, "No Solicitation" or "No Soliciting" or words of similar meaning. Whenever any person engaging in solicitation, whether having a solicitation permit or not, encounters such a sign described above, such person shall not engage in solicitation at such residence and shall immediately and peacefully depart from the premises.
- B. When any solicitor has gained an audience with the owner, lessee, invitee or occupant of a residence, whether the residence is posted pursuant to subsection A above or not, the solicitor shall immediately and peacefully depart from the premises when requested to do so by any owner, lessee, invitee or occupant.
- C. The village police department shall maintain and publish a current do not solicit list on the village website and make it available in hard copy upon request. No solicitor shall attempt to solicit on property that is included on the do not solicit list.
- D. Except as provided below, it is declared unlawful and shall constitute a nuisance and a trespass:
 1. For any person to solicit or attempt to solicit at any residence that:
 - a. Has a posted "No Solicitation" or "No Soliciting" sign on the front door; or
 - b. Is on the do not solicit list; or
 2. For any person to leave paper or other solicitation materials on property where the same or similar materials have been previously left and have not been picked up by the owner or occupant of the property.
 3. For any person to remain on the premises or fail to depart peacefully from the premises immediately upon being requested to do so by the occupant.
- E. The provisions in this section prohibiting trespassing shall apply to any and all persons engaging in solicitation within the Village of North Aurora regardless of whether such

persons are exempt from the requirement to obtain a solicitation permit.

- F. It shall be an affirmative defense to a charge of violation of subsection (D)(1) or (D)(2) of this section if the person charged proves that the solicitation was in response to a subscription or other request for the subject of the solicitation.

(Ord. 08-07-14-03 § 2: Ord. 06-04-24-01 § 1 (part))

5.34.070 - General time, place and manner restrictions.

- A. Identification. Every solicitor who is required to obtain a solicitation permit shall display the solicitation permit, or other authorized form of identification, so that every person being solicited shall have an unobstructed view of the solicitation permit.
- B. Fraud or Misrepresentation. No person shall perpetrate a fraud or misrepresentation of any kind while engaged in solicitation within the village. No person engaged in solicitation shall employ any ruse, plan or scheme, or make any assertion, representation or statement of fact which misrepresents the purpose of the solicitation. It is unlawful for any person engaged in solicitation to represent that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have or that a person has sponsorship, approval, status, qualification, affiliation or connection with an individual, organization, firm or corporation that he or she does not have. It is unlawful for a person engaged in solicitation to represent that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand.
- C. Public Health and Safety. No person shall engage in solicitation within the village in such a manner that creates a danger or threat of any kind to the public health, safety and welfare.
- D. Persons engaged in solicitation within the village shall have a nonexclusive right to use the sidewalks, streets and other public property within the village, but no person engaged in solicitation shall establish a permanent, stationary location for such solicitation, nor shall any person engaged in solicitation block or interfere with the ability of the public to enter upon, travel across or use any sidewalk, street or other public property.
- E. No person engaged in solicitation shall use abusive, vulgar, obscene or offensive language while engaged in solicitation within the village.
- F. No person engaged in solicitation shall threaten to use force, use force or otherwise coerce a person being solicited within the village.
- G. No person engaged in solicitation shall use any sound or voice amplification system or any other device which causes loud or disturbing noises.
- H. For the safety of minors involved in solicitation, no parent, guardian or other person responsible for a minor shall allow a minor in his or her charge to engage in solicitation except during daylight hours, from one-half hour after sunrise to one-half hour before

sunset, unless accompanied by an adult responsible for the minor's well-being.

- I. No solicitation shall take place in the village, or in, upon or around any residence, except during the hours from 9:00 a.m. and 8:00 p.m., Monday through Saturday.
- J. No person may engage in solicitation of funds for any purpose from another person in village in violation of the Solicitations for Charity Act (225 ILCS 460/1 et seq.).

(Ord. 06-04-24-01 § 1 (part))

5.34.080 - Prohibited solicitation.

- A. No solicitation permit shall be issued, nor shall any person engage in solicitation, for the following purposes:
 1. Any prescription or nonprescription drugs or medicines; or
 2. Any meat, fish or poultry if the person who seeks the solicitation permit does not possess the necessary licenses or permits from all regulatory agencies having jurisdiction over the handling and sale of such items.
- B. No solicitation permit shall be issued to any person who is required to register with the Illinois Sex Offender Registry as provided by State Sex Offender Registration Act (Illinois Compiled Statutes 730 ILCS 150/2(B)), and no person who is required to register with the Illinois Sex Offender Registry as provided by State Sex Offender Registration Act may solicit in the Village of North Aurora.

(Ord. 06-08-28-01 § 1: Ord. 06-04-24-01 § 1 (part))

5.34.090 - Display of permit/registration ID.

Solicitation permit card, approximately two inches by four inches, containing the name and address of the soliciting company, organization or association and the product being solicited, the name and address of the solicitor, the effective dates of the permit, in an easy readable form shall be visibly displayed by each person subject to the solicitation permit requirement while soliciting within the village. All permits shall bear the name of the Village of North Aurora and the signature of the chief of police or village administrator.

(Ord. 06-04-24-01 § 1 (part))

5.34.100 - Solicitation period.

- A. Each solicitation permit issued shall be valid for a period of time set by the chief of police but not to exceed sixty (60) consecutive calendar days. The expiration date shall be printed and visible on the face of the solicitation permit.
- B. Each registration permit shall be valid for a period of one year, the expiration date of which registration identification shall be printed and visible on the face of the registration

identification.

(Ord. 06-04-24-01 § 1 (part))

5.34.110 - Solicitation permit denial.

- A. If the chief of police determines that the applicant has not provided all of the information and documentation required in Section 5.34.040 of this chapter, or met the terms and conditions of a solicitation permit set forth in this chapter, then the chief of police shall deny issuance of the solicitation permit and shall give the applicant written notice and explanation of such denial.
- B. Any person who provides all of the requested information and documentation and complies with the permit terms and conditions shall be issued a permit.
- C. No permit shall be denied based on the content of any written publication in violation of the First Amendment freedoms of speech, religion, and the press or upon the basis of any other discriminatory factor including but not limited to race, religion, gender, sexual orientation or age.
- D. The notice of denial shall be delivered in person or by first class U.S. mail addressed to the applicant's current residence address as set forth in the application. The applicant may appeal the denial of a solicitation permit pursuant to this section.

(Ord. 06-04-24-01 § 1 (part))

5.34.120 - Solicitation permit revocation.

Any solicitation permit issued may be revoked by the chief of police if the person engaged in solicitation is convicted of a violation of any of the sections in this chapter, or has refused to leave any premises when asked to do so, has made a false statement in the application, or becomes disqualified for the issuance of a solicitation permit under the provisions of this chapter. Immediately after the revocation, the chief of police shall give the person written notice in person or by first class U.S. mail, return receipt requested, addressed to his or her residence address set forth in the application. The permit shall become null and void immediately on service of the notice of revocation. Receipt of a revocation notice sent by mail shall be deemed given when the recipient signs or refuses to sign the return card or otherwise fails to claim the notice within the time allowed by the U.S. Postal Office.

(Ord. 06-04-24-01 § 1 (part))

5.34.130 - Solicitation permit renewal.

Upon the expiration of a solicitation permit, the person shall be entitled to renew the permit for an additional sixty (60) day period, provided that the application for renewal continues to satisfy all conditions and requirements necessary to obtain an original permit and provided that all relevant

information and documentation is updated and provided to the chief of police.

(Ord. 06-04-24-01 § 1 (part))

5.34.140 - Appeal of permit by revocation or denial.

- A. Any person desiring to contest a denial or revocation of a solicitation permit shall have a right to appeal such decision to the village administrator as provided in this section within fourteen (14) days after receipt of the chief of police's notice of denial or revocation by giving such notice in writing and requesting a hearing.
- B. The village administrator, after receipt of the written request for a hearing, shall set a time and date certain for such hearing within thirty (30) days.
- C. The village administrator shall give written notice of the time, date and place for hearing to the applicant or permit holder at least five days in advance of the hearing date.
- D. At the hearing, the applicant or permit holder may present and submit evidence and witnesses to rebut the reasons cited by the chief of police for revoking or denying the permit. The appealing party shall have the right to file additional documents, amend the written appeal and appear at such hearing in person, be represented by an attorney and examine and cross-examine witnesses.
- E. The village administrator 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.
- F. The appealing party may supply at his or her own cost a court reporter.
- G. Within ten (10) days after the close of the hearing, the village administrator shall render a decision in writing and make it available to the appealing party.
- H. The village administrator may reinstate a revoked permit, grant the requested permit or renewal thereof, or affirm the chief of police's decision.
- I. This action taken by the village administrator shall be final.
- J. If a hearing is waived, the appealing party shall submit what documentation he or she desires to have the village administrator consider with the written appeal, and the village administrator shall render a decision within fourteen (14) days of the filing of the written appeal.

(Ord. 06-04-24-01 § 1 (part))

5.34.150 - Change of information.

During the pendency of an application for, or during the term of, any solicitation permit, the applicant or permit holder shall promptly notify the chief of police in writing of any change in any material information given by the applicant or permit holder in the application for such permit.

(Ord. 06-04-24-01 § 1 (part))

5.34.160 - Penalty and enforcement.

- A. Any person violating or aiding or abetting the violation of any provision of this chapter is guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). Each day that a violation occurs shall be considered a separate violation. The police department and the code enforcement shall have concurrent authority to enforce the provisions of this chapter and may give written notice of any violation and the fine imposed for the violation by serving a citation in person or by certified U.S. mail return receipt requested on any violator. All complaints from citizens regarding violations of this chapter shall be directed to the village code enforcement officer(s).
- B. The acts of any employee, partner or other agent (hereinafter "agent") shall be attributed to and considered the acts of the employer, partnership, corporation, limited liability company or other principal on whose behalf, or at whose direction or by whose authority or consent (hereinafter "principal") the agent was performing the solicitation, and any violation of this chapter by an agent shall be enforceable against the principal and/or the agent jointly or severally. The act of soliciting for another person shall be presumed to create an agency relationship for purposes of this chapter.

(Ord. 06-08-28-01 § 2: Ord. 06-04-24-01 § 1 (part))

5.34.170 - Miscellaneous.

- A. Solicitation shall be deemed completed when attempted.
- B. Any person who solicits or distributes materials in the village, whether directly or indirectly through the use of an agent, shall be responsible for complying with the terms of this chapter and may be liable for a violation of the terms of this chapter whether the violation is committed directly or indirectly by an agent.
- C. Any person who hires or employs an employee or agent to solicit on their behalf shall be vicariously liable for the acts of the employee or agent. Whenever any employee or agent violates the terms of this chapter, the person who employs the employee or agent shall be prima facie responsible for such violation and subject to the penalty therefor.
- D. Persons soliciting or distributing materials in the village must comply with the provisions of Section 9.16.060 of the North Aurora Code.

(Ord. 08-07-14-03 § 3: Ord. 06-04-24-01 § 1 (part))

5.34.210 - No solicitation on public streets.

No person shall engage in any solicitation made upon any public street within the village requesting the contribution of funds or anything of value except pursuant to a permit and in compliance with the provisions in Section 5.34.220 of this chapter.

(Ord. No. 09-01-19-01, § 1, 1-19-2009)

5.34.220 - Solicitation on public streets—Exception by permit.

- A. A permit for solicitation shall be obtained by a sponsoring person, company or organization for the conduct of any solicitation requesting the contribution of funds or anything of value upon any public street in the village, and copies of the permit issued for such solicitation shall be issued to and worn by each person participating in such solicitation upon any public street in the village.
- B. No solicitation shall be conducted on any public street in the village from November 1 through March 31, and no solicitation shall be conducted on any public street in the village between the times from one hour before sundown to one hour after sunrise.
- C. No solicitation shall be conducted on any public street in the village except for the following public streets:
 1. On Route 25 and Route 56, at the intersection of Route 25 and Route 56;
 2. On Route 31 and Route 56, at the intersection of Route 31 and Route 56;
 3. On Route 31, at the intersection of Route 31 and the I-88 ramps;
 4. On Route 31 and Sullivan Road, at the intersection of Route 31 and Sullivan Road;
and
 5. On Oak Street and Randall Road, at the intersection of Oak Street and Randall Road.
- D. No permit shall be issued to a sponsor of solicitation on a public street in the village unless the sponsor is:
 1. Engaged in a statewide fundraising activity; and
 2. Registered with the Illinois Attorney General as a charitable organization as provided by the Solicitation for Charity Act (225 ILCS 460/1 et seq.), in effect and as amended from time to time.
- E. By applying for, and as a condition to the issuance of, a permit pursuant to this section, a sponsor accepts liability, and agrees to hold harmless and indemnify the village, for any injuries to any person or property occurring during the solicitation that is causally related

to an act of ordinary negligence of the persons soliciting on behalf of the sponsor, and the sponsor shall be responsible for supervising and controlling the conduct of all persons soliciting under the sponsor's permit. The sponsor shall carry general liability insurance.

- F. Persons soliciting on the public streets and sidewalks in the village shall:
1. Wear a high visibility vest in compliance with Federal regulations;
 2. Wear a badge or other easily readable form of identification that identifies the name of the sponsor and the name of the individual that is clearly visible at all times;
 3. Not obstruct vehicular or pedestrian traffic, walk in the middle of any traffic lane or remain in any lane when a light turns yellow or green;
 4. Not touch any vehicle or harass any motorist or passenger; and
 5. Comply with all applicable traffic regulations.
- G. Permit applications shall be submitted to the chief of police no later than six months prior to the earliest date that the solicitation is planned to be conducted and shall specify all dates for which the permit is sought; the name of the sponsoring person, company or organization; the streets on which the solicitation is planned; purpose and nature of the fundraising activity planned; proof of registration of the sponsor of registration for solicitation with the Illinois Attorney General's office; proof of liability insurance covering the solicitation activity; and such other information as the chief of police requires to approve the application for compliance with this chapter.
- H. The chief of police shall approve all applications that are in compliance with the requirements of this chapter, except that the chief of police is hereby given the authority to withhold or to suspend all permits for solicitation on the public streets in the village due to weather or other conditions or circumstances that pose a potential public health, safety or welfare hazard to the solicitors, motorists or general public until such time as the hazard no longer exists.
- I. No more than one permit may be issued for solicitation on public streets in the village at any time. Permits will be issued in the order that complete applications are received.

(Ord. No. 09-01-19-01, § 1, 1-19-2009)