

CHAPTER 35 SOLICITORS

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35.01 DEFINITIONS

Terms used in this Chapter 35 are defined in Appendix A and the Illinois Compiled Statutes.

35.02 PURPOSE

Numerous complaints have been received by members of the governing body of this City from occupants of residences and dwelling units about persons who have gained or sought to gain admittance to their residences for the purpose of soliciting; or on the pretext of soliciting, have by their conduct made nuisances of themselves by disturbing and annoying the occupants; or by their acts and conduct have violated the right of the occupants to the quiet and peaceful enjoyment and security of their homes.

The City of Marengo declares that the regulations established by this Chapter 35 are necessary for the safety, health, comfort, good order, protection and welfare of residents of this City who desire the protection of the regulations established by this Chapter 35.

35.03 LICENSE REQUIRED

It shall be unlawful for any person to call upon any residence in the City for the purpose of soliciting, without first securing a license from the Chief of Police, or without being exempt therefrom pursuant to Section 35.04 herein. Any person required by this Chapter 35 to have a solicitor's license must have the license in his possession while engaging in solicitation.

35.04**APPLICATION FOR LICENSE**

Application for a solicitor's license shall be made upon a form provided by the Chief of Police and filed with the Chief of Police. The applicant shall truthfully state in full the information requested on the application, to-wit:

1. Name, address of present place of residence, phone number and date of birth of the applicant and person who will be soliciting for the applicant.
2. Provide a valid photo identification (driver's license or state identification) of the applicant and person who will be soliciting for the applicant.
3. Physical description of the applicant.
4. Name and address of the person, firm or corporation or association whom the applicant is soliciting for and the length of time applicant has been soliciting for the entity.
5. Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in.
6. Period of time for which the license is applied for, shall not exceed 30 days.
7. Whether a license issued to the applicant under this Chapter 35 was ever revoked.
8. Whether the applicant was ever convicted of a violation of any provision of this Chapter 35, or the ordinance of any other Illinois municipality regulating soliciting.
9. Whether the applicant was ever 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.
10. All statements made by the applicant upon application or in connection therewith shall be under oath.

35.05**ISSUANCE, DENIAL AND REVOCATION OF LICENSES**

A. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall issue a license to those applicants found fully qualified and the license shall be issued forthwith. The license shall state the expiration date thereof.

B. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application for the reasons here listed. Endorsement shall then be made by the Chief of Police upon application of the denial of the application No license

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 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 35 or of an ordinance of any municipality regulating this Chapter 35 or of an ordinance of any municipality regulating solicitation; nor to any person who has supplied false information on the application or has been previously revoked after a license was issued.

C. Any license that has been issued shall be revoked by the Chief of Police if the holder of the license is convicted of a violation of this Chapter 35, or has made a false statement in the application or otherwise becomes disqualified for the issuance of a license. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the license, in person or by certified United States mail addressed to the residence set forth in the application. Immediately on giving such notice, the license shall be null and void.

35.06 CITY POLICY ON SOLICITING

It is the policy of the City Council that the occupant or occupants of the residences in this City shall make the determination of whether solicitors shall be, or shall not be, invited to their residence. If no determination is made as is provided in Section 35.07 herein, then soliciting is permitted.

35.07 NOTICE REGULATING SOLICITING *(Amended 26-5-1)*

It shall be unlawful for any peddler, solicitor, canvasser, or transient merchant to enter upon or approach any residence within the City for the purpose of solicitation where there is posted, at or near the primary entrance to the residence, a sign or notice indicating that such solicitation is not desired or is prohibited.

For purposes of this Section a sign or notice shall be deemed sufficient if it is reasonably visible and contains language such as "No Soliciting," "No Solicitors," "No Peddlers," or any other words of similar import clearly conveying the occupant's intent to prohibit or refuse unsolicited contact.

The presence of a sign or notice as described herein shall constitute prima facie evidence that the solicitor had notice that solicitation was not permitted.

This Section shall not apply to:

1. Persons invited by the occupant;
2. Deliveries of goods or services previously ordered or requested; or
3. Government officials or employees acting within the scope of their official duties.

35.08**DUTY OF SOLICITORS**

A. It shall be the duty of every solicitor upon going onto any premises in the City, upon which a residence as herein defined is located, to first examine the notice provided for in Section 35.07 herein, if any is attached, and be governed by the statement contained on the notice. If the notice is present then the solicitor, whether licensed or not, shall immediately and peacefully depart 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.

C. A solicitor may not go upon any portion of the yard (other than a walkway or pathway leading to the front door of the residence) or ring the doorbell upon or near any back door of any residence, 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 and engage in soliciting in such areas after dark.

35.09**UNINVITED SOLICITING**

It is unlawful and shall constitute a violation of this Chapter 35 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 35.07 herein.

35.10**TIME LIMIT ON SOLICITING**

It is unlawful and shall be a violation of this Chapter 35 for any person, whether licensed 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 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, prior to 10 a.m. or after 6 p.m. Monday through Saturday. Soliciting shall not be permitted on Sunday.

35.11**LICENSE FEE** *Amended 13-8-1*

All solicitors or applicants for a solicitor's license shall pay a fee of \$300.00 per person for a three-day solicitor's license.

35.12**LAW ENFORCEMENT SOLICITATION**

A. A person may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.

B. For purposes of this Section 35.12, a solicitation tangibly benefits a law enforcement agency, officer or association if the proceeds of that solicitation are used, represented to be used or intended to be used to support a law enforcement program or purpose which a law enforcement agency or association otherwise would have to fund through its own budgeting mechanism.

C. EXCEPTIONS: This Section 35.12 shall not apply to solicitations:

1. By or on behalf of law enforcement officers campaigning for election to public office; or
2. Solicitations for charitable purposes unrelated to law enforcement activities; or
3. Solicitations for programs that benefit the general welfare of the community, and are sanctioned by the Chief of Police, and 100 percent of the proceeds collected are devoted to that beneficial program.

35.13 **PENALTY** *Amended 18-3-1*

Every violation of this Chapter 35 shall be punishable by a fine of not less than \$500.00 for each violation.

35.14 **FOOD TRUCKS** *20-7-2*

For purposes of this article, the following terms shall have the meanings indicated:

FOOD TRUCK

A food vending business that prepares/serves food from a permitted vehicle, trailer, or cart.

SPECIAL EVENT

An event held on public and/or private property outside of the normal and intended use of that property, that has a defined and limited duration, is open to viewing or participation of the general public or involves a large gathering of people outside of normal operations, and occurs once or only a few times per year. Examples of special events include, but are not limited to: carnivals, festivals, parades, open-air gatherings, film production events, religious tent meetings, outdoor sales events, and athletic events such as 5K run/walks, bicycle races or organized rides, or triathlons, or any other event that requires City approval.

A. PERMIT REQUIRED

1. Food trucks on private property. Food trucks that request to operate on private property shall submit an application for a food truck permit to the Marengo Police Department. The request for a food truck permit shall be made on a form available from the Marengo Police Department.

(a) Each truck operating on a single property requires a separate permit.

(b) Each permit shall be valid for one truck at one location. Trucks requesting to operate on multiple properties require a separate permit for each property.

2. All permits for operating as a food truck will be valid for one year, with an effective date of January 1 and an expiration date of December 31.

3. The fee for each license required by this article shall be \$50. All fees required pursuant to this article shall be paid prior to the issuance of the permit.

B. CONDITIONS OF APPROVAL

All food trucks are subject to the following conditions:

1. Food trucks may operate on private property in any zoning district other than residential districts, with the exception of food trucks operating as part of an approved special event.

2. Food trucks may not operate within the City for more than eight hours during any twenty-four-hour period, but in no case to exceed the hours of operation for the business on the property on which the food truck is located, with the exception of food trucks operating as part of an approved special event.

3. The food truck's Illinois business tax (IBT) number shall be provided with the completed application.

4. Proof of McHenry County Health Department approval must be provided with the completed application prior to beginning operation.

5. For food trucks operating on private property, the applicant must provide proof in writing that the property owner has granted permission for the food truck to operate.

6. A fire extinguisher of minimum size 2A10BC shall be provided in the cooking area. Cooking equipment involving vegetable or animal oils and fats shall be protected by a Class K rated portable fire extinguisher.

7. Food trucks must provide receptacles for refuse and properly dispose of all waste.

8. No Food Truck Vehicle shall be operated unless it is covered by a bond or general liability insurance policy with the City added as an additional insured party and minimum limits of \$1,000,000 individually and in the aggregate. The licensee shall furnish a copy of such bond or insurance policy prior to the issuance

of a license.

9. Food trucks must comply with all noise regulations of the City.

10. Food trucks may not provide seating or tables for their customers, with the exception of food trucks operating as part of an approved special event.

11. Food trucks are allowed to display signage that is painted or permanently affixed to the vehicle. Food trucks are not allowed to display any additional signs, such as freestanding sandwich boards.

12. Food trucks may not have amplified sound or music emanating from the vehicle.

13. Food trucks shall be parked on a suitable surface, as determined by the City Engineer, for the duration of their operation.

14. Food trucks shall not be allowed to park in fire lanes, handicap parking spaces, or in any other location that will impede traffic flow or create unsafe conditions for pedestrians.

C. EXEMPTIONS

1. Food trucks shall be exempt from obtaining a permit under one or more of the following conditions:

(a) The food truck is operating under contract with the City of Marengo.

(b) The food truck is operating as part of an approved special event.

(c) Ice cream trucks.

2. All food trucks, regardless of whether they meet one or more of the above criteria, shall still be required to meet the requirements of "Conditions of Approval."

D. DENIAL OF LICENSE

An applicant may be denied a food truck license under any of the following conditions:

1. The applicant has previously failed to comply with the provisions of a food truck permit.

2. The applicant has been convicted of a violation of any provision of this article.

3. The applicant has failed to qualify for any other license required by the Code of Ordinances of the City.

E. REVOCATION OF LICENSE

The Marengo Police Department or The City of Marengo may revoke any issued food truck license under any of the following conditions:

1. The applicant is found in violation of this article, or of the statutes of the State of Illinois or ordinances of the City of Marengo relating to the public health, safety, or fire protection.
2. The applicant has made a false material statement in the application.
3. The applicant fails to comply with any of the provisions of this article or the terms or conditions of the permit issued pursuant to this article.
4. The property owner communicates to the City in writing that the food truck no longer has permission to operate.

35.15 ICE CREAM VEHICLES 20-7-2

For purposes of this article, the following terms shall have the meanings indicated:

ICE CREAM VEHICLES

A motorized vehicle or device which is not more than 8.6 feet in height at its highest point from the ground, not more than 7 feet in width at its widest point, and not more than 16.4 feet in length at its longest point with a wheel base not to exceed 9.1 feet; a front track not to exceed 5.8 feet; and a rear track not to exceed 5.8 feet.

A. PERMIT REQUIRED

1. It shall be unlawful for any Ice Cream Vehicle to use the streets of the City without its owner and operator first obtaining a food vendor license from the City.
2. All permits for operating as an ice cream vehicle will be valid for one year, with an effective date of January 1 and an expiration date of December 31.
3. The license fee shall be \$50, per ice cream vehicle. All fees required pursuant to this article shall be paid prior to the issuance of the permit.

B. CONDITIONS OF APPROVAL

All ice cream vehicles are subject to the following conditions:

1. Applications for a City license shall be made in writing to the Marengo Police Department on the Food Vendor Registration from.
2. The number of Ice Cream Vehicles to be operated under the license and the vehicle identification number of each must be listed on the application.

3. The applicant, or licensee when renewing a license, shall furnish to the City a certificate of safety certifying that each Ice Cream Vehicle is in a safe mechanical condition and is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror, and windshield wipers in good condition. At any time the City may request a driver or licensee to produce evidence of compliance with this section.

4. The applicant shall furnish a list of the Ice Cream Vehicle drivers, including their names and addresses and copy of their State issued Driver's License.

5. The owner and each driver, including any replacement drivers who will operate Ice Cream Vehicles in the City, shall sign a waiver authorizing the City to conduct a background check on each driver. No driver shall operate any Ice Cream Vehicle within the City until the City completes the background check and it is satisfactory to the City.

6. Copies of all required McHenry County permits shall accompany the application.

7. Any license shall be subject to revocation by the Mayor and City Council upon violation of any ordinance or law of the City or state of Illinois relating to the public health, safety and welfare of the citizens of the City.

C. DRIVERS

While on duty, it shall be unlawful for any driver of an Ice Cream Vehicle to consume any intoxicating liquor, alcoholic beverage or cannabis, or to use any profane or obscene language, to shout or call to prospective customers or to disturb the peace in any manner. It shall be the duty of each driver to obey all City and State traffic rules.

D. ICE CREAM VEHICLES

1. No Ice Cream Vehicle shall be operated in the City unless it bears a current state license. If at any time an Ice Cream Vehicle is not in a safe mechanical condition it shall not be used in the City until repaired and a certificate of safety issued.

2. Ice Cream Vehicles shall not be equipped with electronic sound equipment. It shall be unlawful for any Ice Cream Vehicle to be equipped with mechanical sound equipment except equipment operated in such a fashion that it emits an intermittent and not a continuous sound. In no event shall the sound emitted exceed the levels in the City's pollution control law. At any time intermittent sound equipment is operational, the speed of the Ice Cream Vehicle shall not exceed 15 miles per hour.

3. Each Ice Cream Vehicle shall have, on each side in letters readable from a

distance of 50 feet, the name of the licensee. Each Ice Cream Vehicle shall also have a driver's identification card, including a picture of the driver, prominently displayed so it is clearly visible to customers. If more than one Ice Cream Vehicle is operated by a licensee, each shall be designated by a different number affixed to each side, in numerals readable from a distance of 50 feet.

E. HOURS OF OPERATION

Ice cream products may be sold from a licensed Ice Cream Vehicle between the hours of 12 noon and 8 p.m. or dusk, whichever is earlier. All sales must be conducted from licensed Ice Cream Vehicles that have come to a full stop with sound equipment turned off at the curb line of the street upon which the sales are being made.

F. PROHIBITED STREETS

Ice cream sales shall be prohibited upon the following streets within the City: Illinois Rt. 176 (Telegraph St), Illinois Rt. 20 (Grant Hwy.), Illinois Rt. 23 (State St.), and Prospect St.

G. INSURANCE

No Ice Cream Vehicle shall be operated unless it is covered by a bond or general liability insurance policy with the City added as an additional insured party and minimum limits of \$1,000,000 individually and in the aggregate. The licensee shall furnish a copy of such bond or insurance policy prior to the issuance of a license.