

VILLAGE OF TOLONO
CHAMPAIGN COUNTY, ILLINOIS

ORDINANCE NO. 2020-O-17

AN ORDINANCE AMENDING CHAPTER 111
"TRANSIENT MERCHANTS AND SOLICITORS"
OF THE TOLONO MUNICIPAL CODE

Passed by the Board of Trustees and
Approved by the President
of
Village of Tolono, Illinois
On September 1, 2020

Published in pamphlet form by authority of the President and Board of Trustees of the
Village of Tolono, Champaign County, Illinois, this 1st day of September, 2020.

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SEPTEMBER 1, 2020

**AN ORDINANCE AMENDING CHAPTER 111
“TRANSIENT MERCHANTS AND SOLICITORS”
OF THE TOLONO MUNICIPAL CODE**

WHEREAS, the Village of Tolono, Champaign County, State of Illinois (the “Village”) is a duly organized and existing Municipality created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto with full powers to enact ordinances for the benefit of the residents of the Village and the Village previously enacted the Tolono Municipal Code; and

WHEREAS, the Village Board of Trustees previously adopted Title 11, Chapter 111 of the Tolono Municipal Code relating to transient merchants and solicitors; and

WHEREAS, the Board of Trustees of the Village of Tolono has determined that it is advisable, necessary and in the best interest of the Village to amend and update Chapter 111 as provided herein; and

WHEREAS, the Village deems it appropriate to adopt the within Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TOLONO, ILLINOIS, AS FOLLOWS:

Section 1. Incorporation Clause.

The President and Board of Trustees of the Village of Tolono hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and does hereby, by reference, incorporate and make them part of this Ordinance.

Section 2. Purpose.

This Ordinance is to amend and update all sections of Title 11, Chapter 111 of the Tolono Municipal Code.

Section 3. Amendment.

Chapter 111 of the Tolono Municipal Code is hereby amended to read, in entirety, as provided as follows:

CHAPTER 111: TRANSIENT MERCHANTS, SOLICITORS AND MOBILE FOOD VENDORS

111.01 REGISTRATION REQUIRED

It shall be unlawful for a transient merchant, itinerant merchant, itinerant vendor, solicitor or mobile food vendor to engage in such business within the Village without first registering with the Village Clerk. Provided, however, this chapter shall not be construed as applying to any person(s) who holds a garage sale as defined in this chapter or any person(s) selling or attempting to sell at wholesale garden or agricultural produce grown by such person(s).

Penalty, see 111.99.

111.02 DEFINITIONS

For the purpose of this chapter, the following definitions apply unless the context clearly indicated or requires a different meaning.

CHARITABLE SOLICITATION. All solicitation by or on behalf of a charitable organization within the meaning of Section 501(a) and (c)(3) of the Internal Revenue Code, 1954 (as amended)

GARAGE SALE. A sale of used items, goods and wares legally owned at the time such goods, items, and wares are offered for sale by the person(s) actually residing on the premises upon which such sale is held or legally owned by the neighbors of said person(s).

GOODS, WARES AND MERCHANDISE. Any and all items of tangible or intangible personal property.

MOBILE FOOD VENDOR. Any person(s) who sells food and/or beverages from a motorized mobile vehicle or a trailer pulled by a motorized vehicle.

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

SOLICITOR. Any person, whether a resident of the Village or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares and merchandise; offering and exposing the same for sale, or making sales and delivery of articles to purchasers, or offering services for hire, or who, without traveling from place to place shall sell or offer the same for sale from a wagon, automotive vehicles, or other vehicle conveyance. One who solicits orders and as a separate transaction makes deliveries to purchaser at a future date shall be deemed a solicitor subject to the provisions of this chapter.

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR. Any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the Village or not, who engages in a temporary business of selling and/or delivering goods, wares and merchandise within the Village and who in furtherance of such purpose hires, leases, uses or occupies and building, structure, motor vehicle, tent, railroad box car or boat, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the Village, for the exhibition and sale of such goods, wares and merchandise, either privately or at a public auction. This definition shall include any person, firm or corporation who, while occupying such temporary locations, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery. No person, firm or corporation shall be relieved from complying with the provisions in this chapter merely by reason of associating with any local dealer, trader, merchant or auctioneer, or by reason of conducting such transient business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer.

111.03 REQUIREMENTS OF REGISTRATION

Before a permit or registration card may be issued under this chapter, a written sworn application signed by the applicant, if an individual; or by a duly authorized partner, if a partnership; or by a duly authorized officer of a corporation, if a corporation; or by the managing member, if an LLC, or association; or managing official of any other entity, containing the following must be submitted:

(A) The name(s) and phone number(s) of the person(s) having the management or supervision in the applicant's business during the time that it is proposed that business will be carried on in the Village.

(B) The name(s) of the person(s) who are in fact the ultimate owners and person(s) responsible for the applicant's business.

(C) The name(s) and phone number(s) of the applicant(s).

(D) The local address(es) of applicant(s) while engaged in such business; the permanent address(es) of such person(s).

(E) The capacity in which such person(s) shall act (e.g., proprietor, agent or otherwise).

(F) A copy of a photographic identification of the applicant(s).

(G) The vehicle description and registration/ license plate number and state of issuance for any vehicle that will be used while carrying out the business in the Village.

(H) The name, address and phone number of the person for whose account the business will be carried on, if any, and if a corporation, LLC or association, under what state the same is incorporated or organized.

(I) The place(s) in the village where it is proposed to carry on the applicant's business and length of time during which it is proposed that such business shall be conducted.

(J) A statement of the nature, character and quality of the goods, wares and merchandise to be sold or offered for sale by the applicant in the Village; a statement

whether such goods, wares and merchandise are sold from stock in possession or by sample, credentials from the person for which the applicant proposes to do business authorizing the applicant to act as such representative, and such other reasonable information as to identify the person or persons having the management or supervision of the applicant's business, or the method or plan of doing business.

(K) Written proof of compliance with the Illinois "Transient Merchant Act of 1987" (255 ILCS 465), as amended, the Solicitation for Charity Act (255 ILCS 460) as amended, or other applicable state or county laws, ordinances and regulations.

(L) A Copy of the Illinois Department of Health License issued to the name of the person(s) for whose account the business will be carried on is required for mobile food vendors.

Penalty, see 111.99.

111.04 VILLAGE POLICY ON SOLICITING

It is hereby declared to be the policy of the Board of Trustees that the occupant or occupants of the residences in the Village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences. If no determination is made as provided in section 111.05, then in that event, solicitors may go upon such premises for any lawful purpose as long as said solicitor has been properly registered and issued a permit for solicitation, and provided that entry onto premises is not refused or prohibited by some other lawful means.

111.05 NOTICE REGULATING SOLICITING

Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this chapter 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 following manner:

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

NO SOLICITORS INVITED

or

CHARITABLE SOLICITORS ONLY

(2) The letters shall be at least one-third inch (1/3") in height.

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

111.06 DUTY OF SOLICITORS

(A) It shall be the duty and responsibility of any prospective solicitor, transient merchant, itinerant merchant or itinerant vendor to make application through the

Office of the Village Clerk a minimum of two business days prior to the intended time of solicitation. Upon approval of the application and payment of the appropriate fees, a permit will be issued for a period not to exceed five consecutive days.

(B) It shall be the duty of each applicant to pay a non-refundable application fee upon initial application of \$10 per day for each person who shall solicit or acting as a transient merchant, itinerant merchant or itinerant vendor, provided that there shall be no fee for charitable solicitation as defined in 111.02 of this chapter.

(C) Any business having entered into a franchise agreement with the Village shall be exempt from paying the application fee.

(D) It shall be the duty of every solicitor, upon going onto any premises in the Village upon which residence, as defined in section 111.02 of this chapter, is located, to first examine the notice provided for in section 111.05 of this chapter, if any is attached, and be governed by the statement contained on this notice. If the notice states "CHARITABLE SOLICITORS ONLY," then the solicitor shall immediately and peacefully depart from the premises unless such person represents a charitable organization, as defined in section 111.02 of this chapter; and if the notice states "NO SOLICITORS INVITED," then the solicitor shall immediately and peacefully depart from the premises.

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

(F) It is hereby 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, knock on 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 defined in this chapter, in defiance of the notice exhibited at the residence in accordance with the provisions of section 111.05 of this chapter or to otherwise violate the provisions of this chapter.

Penalty, see 111.99.

111.07 TIME LIMIT ON SOLICITING

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises in the Village and ring the doorbell upon or near any door of a residence located thereon, 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 defined in this chapter, prior to 9:00 A.M. or after 7:00 P.M. or sunset, whichever is earlier. No soliciting shall be lawful on Sunday or a national or state holiday, except for charitable soliciting.

Penalty, see 111.99.

111.08 DUTY OF MOBILE FOOD VENDORS

(A) It shall be the duty and responsibility of any prospective mobile food vendor to make application through the Office of the Village Clerk a minimum of two business days prior to the intended time of solicitation. Upon approval of the application, receipt of all copies of IDHP permits and payment of the appropriate fees, a permit will be issued for a period of January 1 through December 31 of the current year.

(B) It shall be the duty of each applicant to pay a non-refundable application fee upon initial application of \$50 for each mobile food vendor vehicle, except when providing for a private party with no sales to the general public, which there will be no fee.

(C) Any business having entered into a franchise agreement with the Village shall be exempt from paying the application fee.

(D) It shall be the duty of each applicant, whether parking the mobile food vehicle or trailer upon any private premises or upon any public property, to assure the vehicle or trailer is not blocking any fire hydrant, roadway, intersection, traffic sign, view of traffic or entrances or driveways to businesses or homes.

(F) It is hereby declared to be unlawful and shall constitute a nuisance for any mobile food vendor to park the mobile food vehicle or trailer upon any property without consent from the property owner, if private property, or the Village, if public property.

(G) It shall be the duty of mobile food vendors to provide self-contained utilities and trash receptacle.

(H) It is hereby declared to be unlawful and shall constitute a nuisance for any mobile food vendor to sell any alcoholic beverages.

(I) It is hereby declared to be unlawful and shall constitute a nuisance for any mobile food vendor to locate on public property within 200 feet of a restaurant or permanent business that sells food.

Penalty, see 111.99.

111.09 TIME LIMIT ON MOBILE FOOD VENDORS

It is hereby declared to be unlawful and shall constitute a nuisance for any mobile food vendor to conduct business prior to 7:00 A.M. or after 9:00 P.M. Sunday through Thursday and prior to 7:00 A.M. Friday and Saturday or after 12:00 A.M. Saturday and Sunday.

Penalty, see 111.99.

111.10 SIGNS AND NOTICES

The President of the Board of Trustees is authorized to order and display appropriate signs and notices to be placed at appropriate places within the Village, advising that solicitors, transient merchants, itinerant merchants, itinerant vendors and mobile food vendors must register with the Office of the Village Clerk.

111.99 PENALTY

Any violation of any of the provisions of this chapter shall be subject to suspension or revocation of the permit issued, as well as a fine as outlined herein:

- (A) A fine of \$150 for a first violation.
- (B) A fine of \$300 for a second violation.
- (C) A fine of \$500 for any subsequent violations.

Each day on which an infraction of the ordinance occurs shall be considered a separate violation.

Section 4. Superseder and Publication.

All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded. A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

Section 5. Effective Date.

This Ordinance shall be in full force and effect upon passage and approval, as provided by the Illinois Municipal Code, as amended.

Motioned for approval by Trustee Jared Ping

With a second by Trustee Terrence Stuber, roll call vote:

Vicki Buffo yes

Jared Robbins yes

Ryan Perry absent

Terrence Stuber yes

Jared Ping yes

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE
VILLAGE OF TOLONO, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, THIS 1st DAY OF
SEPTEMBER, 2020 A.D.


Robert Murphy, Village President

ATTEST:


Brandy Dalton, Village Clerk

(SEAL)

Recorded in the Municipal Records: September 1, 2020.
Published in pamphlet form: September 1, 2020.