



Legislation Details (With Text)

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**File created:** 7/23/2019      **In control:** City Council

**On agenda:** 8/20/2019      **Final action:** 8/20/2019

**Title:** Pass the ordinance repealing and replacing Section 3-7 of the Naperville Municipal Code regarding peddlers and solicitors

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance Changes Table, 2. Strikethrough Ordinance, 3. Replacement Ordinance Draft

Date	Ver.	Action By	Action	Result
8/20/2019	1	City Council	passed	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance repealing and replacing Section 3-7 of the Naperville Municipal Code regarding peddlers and solicitors

**DEPARTMENT:** City Clerk’s Office

**SUBMITTED BY:** Shebnem Ozkaptan, Budget and Admin Services Coordinator    Kristen Foley, Senior Assistant City Attorney

**BOARD/COMMISSION REVIEW:**

First reading was held at the July 16, 2019 City Council meeting. No questions were asked and the item had no public speakers.

**BACKGROUND:**

Chapter 7 of the Naperville Municipal Code provides regulations concerning peddling, soliciting, tag days, and food vending. In 1970 the City established solicitor regulations that have been amended over time, resulting in a patchwork of regulations, which have become burdensome and confusing to navigate. City staff conducted a comprehensive review and rewrite of the ordinance to increase transparency and improve efficiencies. This Chapter is narrowly tailored to the City of Naperville’s legitimate interest in the health, safety, and welfare of the public, preventing fraud, the privacy of its residents, the prevention of crime, and conserving the Police Department’s resources and is intended to apply only to commercial activities and the solicitation of funds. This Chapter is expressly not intended to interfere with the exercise of free speech and free exercise rights protected by the first amendment (e.g., religious proselytizing, anonymous political speech, and the distribution of handbills).

**DISCUSSION:**

The proposed ordinance is a complete revision and replacement of the current ordinance. An Ordinance Changes table shows a comparison of the current and proposed changes and is included for reference.

In general, the proposed changes reflect a reordering of sections, the consolidation of a number of components, and the removal of duplicative and outdated language. However, several proposed changes address process inefficiencies, feedback from customers, and staff experiences over ten years of administering the current ordinance.

Edits were made to keep like “themes” in the same sections rather than interspersed throughout the ordinance and a chart was developed to provide a comprehensive reference of all fees.

Proposed modifications include the following:

***Elimination of City-issued safety vests and associated deposit requirements for peddler, solicitor, and tag day applicants***

In 2009, ordinance 09-42 mandated that all licensed peddlers/solicitors/tag day participants undergo a background check, receive a City-issued photo identification badge, and a City-issued safety vest with the designation of “Naperville Approved Peddler/Solicitor.” The following year, ordinance 10-107 was passed and required applicants to pay a cash-only \$40 deposit for the vests.

Most applicants are given a vest by their organization that provides not only visibility for safety but also marketing for the organization. Requiring a City-issued vest is duplicative and unnecessary. Instead, the City will require the organization, or applicant, provide a vest. A survey of area ordinances found that Naperville is the only municipality that issues vests. The results are shown in the table below.

Peddler/Solicitor Survey					
Municipality	Application Fee	Solicitation Period	ID Badge	City Issued Vest	Background Check
Aurora	\$100/30 days	Maximum of six months per peddler per calendar year	Y	N	Y
Bolingbrook	\$25/year	Yearly fee	N	N	Y
Carol Stream	\$150.00/year; \$50.00/month; \$30.00/week; \$10.00/day	Various	Y	N	Y
Elk Grove	\$40.00	30 Days with a 30-day extension at \$15.00	Y	N	Y
Evanston	None	None	N	N	N
Lisle	\$45.00	90 Days		N	Y
Naperville	\$100/30 days	30 Days	Y	Y	Y
Orland Park	\$50.00	90 Days	Y	N	Y
Plainfield	\$35/30 Days	30 Days	N	N	Y
St. Charles	\$50.00	90 Days	Y	N	Y
Woodridge	\$60.00	Yearly fee	Y	N	Y

It is critical that our residents and visitors are secure in the knowledge that solicitors, peddlers, and

tag day individuals have been vetted by the City. As such, staff will still require background checks conducted by the Naperville Police Department and photo identification badges will continue to be issued by the City Clerk's Office.

With the elimination of the City-issued vest requirement, it would also be appropriate to eliminate the associated deposit requirement. Aside from the deposit no longer being necessary, over the years this process has become administratively burdensome and, often times, inconvenient to the applicants. Many organizations will pay the deposit for a significant number of employees. On the advice of auditors, the Clerk's Office no longer keeps large amounts of cash in the office. As such, large deposits are given to the Finance Department. Upon the return of the vests, if the Finance Department does not have enough cash on hand, a check must be processed and mailed.

### ***New quarterly peddler/solicitor license***

In 2019, staff piloted a program that allows peddlers/solicitors with three consecutive months of full ordinance compliance to receive a quarterly license. Instead of returning every 30 days to apply for a new license and undergo a background check, qualifying organizations will be processed every 90 days. A current monthly license is \$100 and the cost of the proposed three-month license will be \$300. One organization participated in the pilot and has had no issues to date.

### ***Refined Definitions***

#### ***Food Vendor***

- Updated to define motorized vehicle per the Illinois Vehicle Code.
- Limited sales to pre-packaged food items only.

#### ***Peddler***

- Updated to exclude food peddling (see Food Vendor).

#### ***Food Trucks***

- The current ordinance is silent regarding food trucks. The proposal applies the Illinois Vehicle Code definition of a motorized vehicle, clarifies the truck is where food is prepared and cooked for public consumption, that it is at a fixed location, and prohibits operation in the public way within the City. Food truck operation will be allowed on private property.

#### ***Central Business District***

- Added the central business district definition from Ordinance 92-210 which reads, "the area bounded by Eagle St. on the west, Benton Ave. on the north, Ellsworth St. on the east and Chicago Ave. on the south (east of Washington St.), and Aurora Ave. on the south (west of Washington St.)"

### **FISCAL IMPACT:**

N/A