

Chapter 33

**PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS
05-31-13**

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33.01 DEFINITIONS AND GENERAL CONDITIONS.

Commercial Activity: All other forms of activity of Peddlers, Solicitors, Itinerant Merchants or Ice Cream Vendors, including but not limited to the Sale of any Commercial Item.

Commercial Item: Any commodity, service, subscription, product, good, article or item of ascertainable economic value, that is offered for present or future delivery, in exchange for some form of monetary compensation (whether received contemporaneously or at a future time).

Food or Beverage: Any product, whether a food or beverage, intended to be consumed by persons for the purpose of providing nourishment or flavor, including but not limited to snacks, ice cream, beverages, frozen confections, cookies, chips, hot dogs, fruit, or any other food or beverage, whatsoever.

Food or beverage vending vehicle: A vehicle from which the retail Sale of Food or Beverage for human consumption is conducted (including ice cream vehicles).

Ice cream vehicle: A food or beverage vending vehicle used for the retail Sale of ice cream, frozen confections, or similar desserts.

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Food or beverage delivery vehicle: A vehicle utilized to make pre-arranged deliveries of food or beverage to a single location of private property within the City, without soliciting or making additional retail sales that are not pre-arranged. (E.g. a pizza truck, a “Peapod truck” or similar truck, making a delivery of food to a single residential location after said food was ordered via telephone or internet).

Itinerant Merchant: A person engaged in business in the City offering for Sale any Commercial Item, who intends to continue such business in the City for not more than one hundred and eighty (180) days and who, for such purpose, leases or occupies all or part of any room, structure or vacant lot in the City for the display of such Commercial Item, or in connection with the offering of such services.

Non-Commercial Activity: Activities that are not commercial in nature, such as activities that do not involve Sale of any Commercial Item, but rather which are solely consisting of: a) religious or political free speech without any corresponding financial or commercial activity; b) solicitation of gratuitous donations for non-commercial entities or undertakings such as charities, political organizations, churches or similar matters without the provision of any non-gratuitous consideration, product or service; or, c) other similar activities not involving commerce or trade or the Sale of any Commercial Item. If there is any element of Commercial Activity, a given activity shall not qualify as Non-Commercial Activity (e.g. the solicitation of payments in exchange for a Commercial Item shall be deemed Commercial Activity).

Peddler: A person engaged in business who engages in the Sale of any Commercial Item on any street, sidewalk, park or public place, or who travels from place to place in the City, or who engages in the Sale and delivery from any vehicle or pushcart going from place to place in the City any Commercial Item, and who carries such Commercial with him for delivery at the time of sale. Notwithstanding the foregoing, a company that is engaged in Sales of Commercial Items from a fixed location and which engages in otherwise lawful Sales of Commercial Items upon the sidewalk or right of way adjacent to their fixed place of business shall not be deemed to be a Peddler.

Regulated Activity: Any activity which is subject to the provisions of this Chapter 33.

Sale: The offered, attempted or completed sale, exchange of compensation, money or remuneration, trade, barter or solicitation of future sales/trades/barter of any Commercial Item.

Solicitor: A person engaged in business, going from place to place in the City or on any street, sidewalk, park or public place, who takes orders for future delivery of any Commercial Item, who solicits subscriptions for books, magazines, newspapers or other periodicals, publications or Commercial Items for immediate or future delivery, or who offers to furnish services or invites orders for services or any Commercial Item.

Vehicle: For purposes of this Article, the term “Vehicle” shall include: 1) every motor vehicle which is mechanically propelled and designed to transport one or more persons; 2) any push cart, bicycle cart, or other device used to transport food which is propelled by the person(s) operating said device; or, 3) any other mobile or portable device utilized in Regulated Activity.

Any authority provided to any expressly named City official in this Ordinance (e.g. City Clerk or Chief of Police) may also be exercised by a designee thereof.

33.02 EXEMPTIONS.

a) Persons who are engaged in Non-Commercial Activities shall not be subject to licensure under this Ordinance, except as required under Section 33.03 below. However, persons engaged in Non-Commercial

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Activities shall be subject to any regulation or restriction contained in this Chapter 33 that expressly indicates it is applicable to such Non-Commercial Activities.

b) No provision of this Chapter 33 shall apply to any federal, state or local public employee who is engaged in the performance of their official duties. Similarly, no license shall be required under this Chapter 33 for any public entity that is engaged in the Sale of any Commercial Item or which is otherwise engaged in Peddling or Soliciting, unless the activity in question is regulated under Section 33.03.

c) No provision of this Chapter 33 shall be construed in such a fashion as to deny any person of the right to free speech or freedom of religion as guaranteed under the Constitution of the United States or of the State of Illinois.

d) The City may enter into an agreement with an entity permitted to engage in sales of items from a fixed location on public property (e.g. a concession stand located in a public park), and may exempt such an entity from licensure under this Chapter 33.

e) The Farmers' Market shall be authorized and operated under the rules established by Municipal Code Chapter 6, “Streets Alleys and Sidewalks”. Participants in the Farmers’ Market shall be exempt from the license/permit requirements of this Chapter.

f) Minors engaged in fundraising activities to support: 1) a federally chartered charitable organization (such as Girl Scouts or Boy Scouts of America); 2) an activity organized and operated by a public or private school or a unit of local government; 3) an organization organized as a Not For Profit entity and registered with the State of Illinois as a Charitable Organization; or, 4) a similar Not For Profit organization that has a chapter or club based in the City of DeKalb, as determined in the sole and exclusive discretion of the City Manager, shall be deemed to be engaging in Non-Commercial Activity, and shall not be subject to licensure, but shall be required to comply with any other applicable regulations herein.

33.03 SOLICITATIONS IN PUBLIC ROADWAYS.

a) Except for Food and Beverage Vending Vehicles, it shall be unlawful to engage in any form of Regulated Activity, Peddling, Soliciting, Canvassing, Sale of Commercial Items, or other similar activity that is not expressly permitted under subsection (b) of this Ordinance, within a public roadway or right of way. No person shall stand on a street for the purpose of soliciting employment or business from the occupant of any vehicle.

b) Permitted Solicitations in Public Roadways and Rights of Way:

1. Public safety employees, including police and fire department employees, are permitted to engage in charitable solicitation within roadways without any further regulation.

2. A charitable organization, as defined within Section 2 of the Illinois Charitable Games Act, may engage in charitable solicitation within a public roadway only after applying for and receiving a license to engage in said activity. The City Clerk shall be authorized to generate and maintain a license application and form of license, consistent with the following regulations:

(a) The application must be filed not less than 10 days prior to the date on which the activity is proposed to occur.

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(b) The application must list the date(s) and time(s) of any proposed activity, the manner and condition in which the activity is proposed to occur, and related information. Permits shall be valid only for the dates and times listed on the application. In order to permit proper evaluation of seasonal and weather conditions, traffic conditions, and the conduct of the charitable solicitations, no permit shall be valid for a period of longer than thirty (30) days.

(c) Consistent with the state limitations on such licenses, the Chief of Police may impose reasonable restrictions on the activity. However, the issuance of a license shall not constitute approval of the applicant's activities, and any applicant is encouraged to utilize safe practices in the conduct of their activities. Among the restrictions to be imposed on any such activities are:

- i. Such activities may only be conducted during daylight hours.
- ii. Such activities may only be conducted by persons of sound mind, over the age of 18 years of age.
- iii. Any person engaging in the activities must wear a brightly colored, reflective vest.
- iv. No person may stand in a roadway or engage in such activities in a way that hinders, impedes or slows the flow of traffic.
- v. No person engaged in such activities may approach any vehicle that is moving.
- vi. No person engaged in such activities may stand in a lane of traffic at a stoplight, when the stoplight is illuminated green for the lane of traffic in question.
- vii. No person engaged in such activities may place any temporary or permanent obstacle, improvement, sign or other device in the roadway or right of way adjacent thereto.
- viii. No person engaged in such activities shall engage in harassing or aggressive conduct.
- ix. No person engaged in such activities shall make physical contact with any person or vehicle in the course of engaging in the charitable solicitation, unless invited by the person or occupant of such vehicle to do so.

(d) The applicant must provide the City with a valid certificate of liability insurance that insures the applicant against claims for property damage or bodily injury arising out of or in connection with the roadway solicitation activities, with minimum coverage limits of at least \$1,000,000.00. No solicitation permit may be issued for a period of time longer than the period of coverage evidenced on such insurance certificate.

(e) The City Clerk shall maintain a list of intersections that are prohibited for use for solicitation under this Section, based upon public safety concerns arising out of traffic patterns at such intersections. The City Manager and Chief of Police shall be authorized to amend or update such list from time to time.

c) It shall be unlawful to engage in any form of solicitation within a public roadway or right of way except if conducted in compliance with subsection (b)(i) or (b)(ii) above. It shall be unlawful to engage in charitable solicitation governed under section (b)(ii) without a then-valid roadway charitable solicitation license issued by the City, or to engage in roadway charitable solicitation in violation of the conditions of such permit or this ordinance. A violation of this ordinance shall be punishable by a fine of not less than \$300. If a

person is cited for a violation of this ordinance and, after receiving the citation, engages in further roadway charitable solicitation in violation of this ordinance, each separate act of solicitation shall constitute a separate offense, punishable by fine.

33.04 LICENSE REQUIRED.

It shall be unlawful to engage in the activity of an Itinerant Merchant, Peddler or Solicitor without first obtaining a license for said activity from the City Clerk. This Section shall not apply to the wholesale selling of commodities or articles for further resale or for use in industrial or business establishments, and this section shall not apply to any church, congregation, religious society, sect, group or order which solicits funds for religious purposes by selling or offering for sale any article, publication or subscription by going from place to place. Nor shall this section apply to farmers and growers selling produce or homemade products for consumption.

33.05 LICENSE APPLICATION.

a) Application for a License required under this Chapter 33 shall be made on a form approved by the City Clerk and Chief of Police. Said application shall provide the information required by the City Clerk and Chief of Police, including but not limited to:

1. Name and description of applicant.
2. Address (permanent and local).
3. A brief description of the nature of the business, including the goods to be sold or the services offered.
4. The name and address of the person by whom the applicant is employed or with whom he is associated.
5. The length of time the applicant wishes to engage in such activity (limited to thirty (30) days or less for Peddlers and Solicitors, and 180 days or less for Itinerant Merchants).
6. If a vehicle is to be used, a description of the vehicle together with license number.
7. A statement that the applicant has not been convicted in the past four years of a felony, any sex offense as defined in Article XI of the State of Illinois Criminal Code, assault, aggravated assault, battery, aggravated battery, eavesdropping, theft, deception, criminal damage to property, criminal trespass to land or vehicles, unauthorized possession of weapons, sale or possession of any dangerous or narcotic drug, or disorderly conduct.
8. The applicant must show proof of a Retailers Occupational Tax Certificate to the City Clerk. Persons engaged in the Sale of any Commercial Item that is subject to the City's Restaurant and Bar Tax must also submit any required documentation to the City's Financial Department to ensure collection and remittance of the tax.
9. The applicant must submit a signed authorization and waiver, along with payment of the then-current City fee, for completion of a criminal background check. Said waiver and fee is required for each person proposed to be engaged in the activities.

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10. The identity of the Primary Applicant, who shall be responsible for any costs, damages, liabilities or claims of damage arising out of the activities of any person listed on the application that is engaged in Regulated Activity.

b) Fees: At the time of filing the application for a Peddler, Solicitor, or Itinerant Merchant, a fee of Twenty Five Dollars (\$25.00) shall be paid to the City Clerk to cover the cost of verifying the application; said fee shall be paid for each person listed on the application. These fees shall be non-refundable. Every peddler, solicitor, and itinerant merchant, as those terms are defined in Section 33.01, shall require a license. The fees contemplated in this subsection (b) shall be in addition to the required fee for background checks contemplated under subsection (a)(9). All fees shall be payable prior to the issuance of a license under this Chapter 33, for the full duration of license sought. Daily fees shall not be refundable.

1. The fee for a solicitor license shall be Twenty-Five Dollars (\$25.00) per day for a period not to exceed one month.

2. The fee for an itinerant merchant license shall be Twenty-Five Dollars (\$25.00) per day for a period not to exceed 180 days.

3. The fee for a peddler license shall be Twenty-Five Dollars (\$25.00) per day for a period not to exceed one month.

c) Any person who feels that such cost of licensing and investigation would work a hardship may appeal such cost to the Mayor. The Mayor may make a determination upon examination of the appellant's financial records or on such other information as he feels necessary. Upon finding such a hardship exists, the Mayor may reduce or waive such licensing and investigative costs. Any waiving or reduction of costs, however, will not affect the obligation to register.

33.06 VERIFICATION OF APPLICATION.

a) After the submission to the City Clerk of a completed application and all supporting documentation and fees, the Chief of Police shall review the application, supporting documentation, and background check, and shall approve or reject the application.

b) No license shall be issued if the information furnished by the applicant has been falsely stated. No license shall be issued to any person who has been convicted of any sex offense as defined in Article XI of the State of Illinois Criminal Code, assault, aggravated assault, battery, aggravated battery, eavesdropping, theft, deception, criminal damage to property, criminal trespass to land or vehicles, unauthorized possession of weapons, sale or possession of any dangerous drug, or disorderly conduct as these terms are defined in the State of Illinois Criminal Code. If the requisite information appears on the license application and is verified by investigation, a license shall be issued.

c) If a license application is rejected, the applicant shall be mailed a Notice of Rejection to the address listed on their application.

33.07 REVOCATION OR SUSPENSION OF LICENSE.

a) The licenses issued pursuant to this Chapter may be revoked by the Chief of Police for any of the following causes. Notice of revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint.

1. Any fraud, misrepresentation or false statement contained in the application for license.
2. Conviction of any fraud, misrepresentation or false statement made in connection with the Sale of any Commercial Item.
3. Any violation of this Chapter.
4. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
5. Conducting the business licensed under this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
6. Failure to pay any tax, duty or other sum or charge due to the City from the licensee or any person listed on the licensee’s application, or any such person becoming a debtor of the City of DeKalb on any form of obligation.

b) In addition, in the event that the Chief of Police becomes aware that any Licensee under this Chapter 33 has been charged with any offense that would either disqualify the applicant from receiving a license or justify revocation of a previously issued license, the Chief of Police may notify the Licensee, via mail, of the City’s intent to conduct a hearing to revoke the license in question. Such notice shall be mailed not less than 3 business days before the date of the hearing; however, if the Licensee is provided with actual, personal notice, not less than 1 business day of notice is required. Said hearing may be conducted by the Chief of Police or an Administrative Hearing Officer of the City, and shall be conducted as a hearing with a civil burden of proof and informal rules of evidence. In the event that the Chief of Police determines that, by a preponderance of the evidence, that it is more probably true than not that the licensee committed the offense in question, the Chief of Police shall revoke the license.

c) Further, the Chief of Police may suspend any license, for a period of not more than five business days, when the Chief determines that suspension is in the public interest or is reasonably necessary to protect the public health or safety, or when investigating an action or alleged violation of this Chapter 33 or any other City ordinance or state or federal statute by a licensee.

d) When multiple applicants are listed on a single application to engage in conduct licensed under this Chapter 33, the conduct of any single applicant/licensee shall be grounds to take action relative to all persons listed on said application/license.

33.08 APPEAL FROM DENIAL, SUSPENSION OR REVOCATION.

Any person who is denied a license under this Chapter 33, or who receives a license and said license is subsequently revoked or suspended, may appeal such decision to the City Manager. A written notice of appeal must be filed in writing with the City Clerk, within thirty days of the date of denial, suspension or revocation, and said written appeal must outline all grounds and basis for the appeal that the licensee/applicant wishes to

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have considered. The decision of the City Manager shall be issued within thirty days of the date of receipt of the appeal, and shall be final. The City Manager may, at his discretion, order a hearing before the City Manager or an Administrative Hearing Officer of the City to consider the appeal, on the grounds identified in the written notice of appeal.

33.09 RESTRICTIONS.

The restrictions of this Section 33.09 shall apply to both Commercial Activity and Non-Commercial Activity.

a) Posted Premises. No person who engages in Regulated Activity shall enter upon any business or private residence in the City without have been requested or invited to do so by the owner or owners, occupant or occupants of the business or residence, for the purpose of pursuing his business of peddling, or soliciting, if there is posted in a place that can be readily seen by one approaching the business or residence, a sign bearing the legend "No Peddlers", "No Solicitors", or "No Canvassers", or words of similar import. It shall be unlawful for any person, whether engaging in commercial or noncommercial canvassing, solicitation or other similar enterprise, to, when entering upon a premises which has a reasonably visible "No Solicitors" or other such similar sign, continue with the attempted Peddling, Soliciting or service as an Itinerant Merchant. Upon sight of such sign, the person engaged in the activities must leave the premises. If such sign is reasonably visible, the person engaged in the activities shall be presumed to have seen the sign and shall be in violation of this chapter if he or she attempts his or her Commercial Activity or Non-Commercial Activity.

b) Night Activity. No person who engages in Regulated Activity shall go upon any private residence in the City for the purpose of canvassing or of pursuing his business of Regulated Activity without having been requested or invited to do so by the owner or owners, occupant or occupants of the private residence, before 9:00 a.m. or after 7:00 p.m. of any day.

c) Noise. No person who engages in Regulated Activity shall carry on his trade by means of loud outcries or other noises that disturb the peace and quiet of the residents of the City.

d) Leave Upon Request. No person shall engage in Regulated Activity at, or remain on the premises of, any residence after having been asked by the occupant thereof to leave said premises or residence.

e) No person shall leave or deposit materials upon private property without the consent of the property owner. Door hangars or printed materials left securely affixed or enclosed within a doorway in such a way as to avoid being subject to blowing away or becoming refuse shall be permitted. No materials shall be deposited into a yard or open area, or placed on or within any mailbox. (13-01)

f) In the case of a single-family dwelling, any person who engages in Regulated Activity shall only enter any property from the front yard and, unless invited by the resident of the premises, shall only knock, ring or otherwise attempt to contact the residents in the building at the front or main door to the dwelling.

g) For purposes of soliciting at multiple-family dwelling units, any person who engages in Regulated Activity shall only enter any property from the front entrance to the dwelling unit complex and, unless invited by the specific resident of a specific unit, shall only knock, ring or otherwise attempt to contact the residents in the building at the front or main door of each such unit.

h) No person who engages in Regulated Activity shall use any plan, scheme or ruse or make any statement which indicates or implies that the purpose of such person's visit is other than to obtain orders for or

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to make sales of goods or services. No person who engages in Regulated Activity shall make any false, fraudulent or misleading statement in connection with the Regulated Activity or in connection with the Sale of a Commercial Item.

i) No person who engages in Regulated Activity shall misrepresent the right of a buyer to rescind, or cancel a sale under the provisions of applicable law.

j) No person shall solicit any Sale of a Commercial Item on behalf of an entity, organization or individual which does not possess all required licenses, permits and permissions to engage in the Sale of the Commercial Item within the City of DeKalb and State of Illinois.

k) No person shall engage in any Regulated Activity at a time when their license for said activity has expired or has been suspended or revoked.

33.10 RIGHT TO RESCIND.

It shall be unlawful for any person to engage in a violation of the Consumer Fraud and Deceptive Business Practices Act (“the Act”), including any violation of the 3 day right to rescind provisions applicable to door-to-door sales under the Act.

Any person engaged in sales governed under 815 ILCS 505/2B (or any successor or amended version of said statute) shall be required to provide any customer with a written disclosure form, separate from any purchase contract, in both English and the primary language of the customer, that includes the full disclaimer and notice of consumer rights contemplated by the statute. It shall be unlawful to fail to comply with the Act, or to fail to give the separate notice required under this section 33.10.

33.11 FALSELY CLAIMING REPRESENTATION OF THE CITY OR A PUBLIC ENTITY.

It shall be unlawful to engage in any Regulated Activities and to falsely claim to be a representative of the City of DeKalb or any other governmental entity. Violation of this Section 33.11 shall be punishable by a fine of not less than \$750.00.

33.12 ELECTRICAL AGGREGATION, ELECTRICAL, NATURAL GAS OR UTILITY SUPPLY AGREEMENTS.

a) Any person engaged in Soliciting relating in any way to electrical aggregation or the supply of electricity or electrical power, or the sale or aggregation of electrical power, natural gas or any other utility supply within the City of DeKalb shall be required to provide a written disclosure, separate from all other documentation, to any potential customer prior to executing any contract or agreement for sale or for future sale or delivery of any Commercial Item. Said disclosure shall be in English and in the primary language of the potential customer, and shall be in a form and content acceptable to the City Clerk. Said disclosure shall clearly and expressly identify whether the Solicitor is working in connection with any City-initiated program or policy. If the person is not working in connection with a City-initiated program or policy (e.g. the person is not soliciting for electrical supply under the requirements of an electrical aggregation program from a supplier approved by the City Council), the disclosure shall so indicate, and shall also indicate that the City maintains an alternate aggregation program.

b) Said person engaged in Soliciting shall also verbally, expressly and clearly identify and indicate whether said person is working in connection with any City initiated program or policy. If the person is not

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working in connection with a City-initiated program or policy (e.g. the person is not soliciting for electrical supply under the requirements of an electrical aggregation program from a supplier approved by the City Council), the person shall so indicate, and shall also indicate that the City maintains an alternate aggregation program.

c) Without regard to any other definition, exemption or other provision of this Chapter 33, any person engaged in behavior contemplated by Section 33.12(a) shall be required to register as a Solicitor. The failure to register as a Solicitor, when engaged in behavior contemplated by Section 33.12(a) shall be a violation of this Ordinance, punishable by a fine of not less than \$750.00.

d) It shall be unlawful to fail to provide the separate, verbal and written disclosure required under the preceding section, or to falsely claim to be representing a City-initiated project.

e) A violation of this Section 33.12 shall be punishable by a fine of not less than \$750.00.

33.13 FOOD OR BEVERAGE VENDING VEHICLES.

a) Vehicles used exclusively as Food or Beverage Delivery Vehicles are not governed under the provisions of this Section 33.13.

b) It shall be unlawful to operate or own any vehicle utilized as a Food or Beverage Vending Vehicle within the City of DeKalb, without first obtaining a County of DeKalb Food Service License and any required inspection, permit or insurance. Copies of the same shall be provided to any City official or customer, for inspection, upon request. All such vehicles shall be maintained in good working order, and in compliance with all applicable regulations, codes and ordinances.

c) No person shall operate a food or beverage vending vehicle, employ a person to operate a food or beverage vending vehicle, or rent, lease or otherwise provide a food or beverage vending vehicle for use within the City without first having obtained a food or beverage vending vehicle license from the City Clerk, in consultation with the City Police Department. Any food or beverage vending vehicle operating in the City shall have its City food or beverage vending vehicle license prominently displayed in the lower right hand corner of the passenger front window of said vehicle, or in such other location as shall be visible to persons approaching such vehicle. A separate application and license shall be required for each person who is more than a 20% owner of the enterprise operating the food or beverage vending vehicle, for each person driving or operating the food or beverage vending vehicle within the corporate limits of the City, and for each person working in or vending from the food or beverage vending vehicle within the corporate limits of the City.

d) Application for a Food and Beverage Vending Vehicle License shall be made on the form utilized for a Solicitor’s License and shall be subject to the same restrictions.

e) Fees: At the time of filing the application for a Food or Beverage Vending Vehicle, a fee of Twenty Five Dollars (\$25.00) shall be paid to the City Clerk to cover the cost of verifying the application; said fee shall be paid for each person listed on the application. These fees shall be non-refundable. Every peddler, solicitor, and itinerant merchant, as those terms are defined in Section 33.01, shall require a license. The fees contemplated in this subsection (e) shall be in addition to the required fee for background checks. All fees shall be payable prior to the issuance of a license under this Chapter 33, for the full duration of license sought. In addition, a monthly fee of \$50 shall apply to the operation of each such vehicle. Monthly fees shall not be refundable or prorated.

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f) In addition to the regulations applicable to Solicitor's licenses, no person who is a sex offender as defined in the Sex Offender Registration Act (730 ILCS 150/1 et. seq., as may be modified from time to time) shall be permitted to operate or obtain a license to operate any food or beverage vending vehicle within the City. No person who has plead guilty or otherwise has been convicted of any crime that would disqualify said person from holding a job as a public school teacher or bus driver within the State of Illinois shall be permitted to operate or obtain a license to operate any food or beverage vending vehicle within the City. Additionally, no person who, in the judgment of the Chief of Police of the City, has plead guilty to or otherwise has been convicted of any crime or offense that is incompatible with the requirements of this Ordinance, including but not limited to: a) one serious or multiple minor traffic offenses that demonstrate a history of failing to adhere to applicable traffic regulations; b) crimes or offenses directed at children or minors; c) crimes or offenses involving the sale of unlawful or illicit substances such as illegal drugs, fireworks, or sale of age-regulated materials to underage persons; or, d) such other crimes as the Chief of Police shall deem incompatible with this ordinance, shall be eligible to operate or to receive a license to operate any food or beverage vending vehicle within the City. The Chief of Police shall be responsible for review and approval of all food or beverage vending licenses submitted to the City, and any license not meeting his approval shall be rejected and denied.

g) Every food or beverage vending vehicle operated within the City on any public roadway shall be covered by a policy of automotive liability insurance and a policy of comprehensive general liability insurance issued by a solvent and responsible insurance company authorized to do business in Illinois. Each such policy shall carry minimum limits of coverage of \$1,000,000.00 per occurrence. Each vendor shall provide the City with a certificate of insurance naming the City as an additional primary insured without right of subrogation.

h) Violation of the terms of any provision of this Ordinance or any provision of the Illinois Vehicle Code or applicable local, state or federal food and sanitation ordinances shall be cause for revocation of a license, and subsequent ineligibility to obtain a license, for a period of not less than ten days and not more than one year. A third or subsequent violation shall be cause for permanent ineligibility for issuance of a City license. Violations shall be processed according to the provisions of Section 33.07 and 33.08.

i) All food or beverage vending vehicles (including ice cream vehicles) shall be equipped with the following items, which shall be operational and in use whenever vending occurs within the corporate limits of the City.

1. A litter or trash container, visible and available to customers of the vending vehicle (in addition, each licensee shall clean up any litter or trash occurring as a result of the vendor's business prior to leaving any area of sale).

2. Adequate equipment and refrigeration to keep all perishable food or beverage on the vehicle at a temperature below 50 degrees Fahrenheit, and perishable ice cream or similar frozen confections at a temperature of below 0 degrees Fahrenheit. The use of ice or dry ice for refrigeration is prohibited.

3. A sign on the passenger side of the vehicle displaying in letters no smaller than five inches in height in a clearly visible color, the name and phone number of the company or person responsible for the operation of the vehicle.

4. At all times while engaged in retail sales or soliciting for retail sales, there may be no persons under the age of 18 or persons other than employees in said food or beverage vending vehicle. All persons in said vehicle must be licensed by the City in accordance with this Ordinance.

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j) In addition, all ice cream vehicles shall be equipped with the following items, which shall be operational and in use whenever vending occurs within the corporate limits of the City.

1. A sign on the front and back of the vehicle which shall consist of reflective letters no less than five inches in height and which shall state “CAUTION, CHILDREN CROSSING.”

2. A foldout, diamond-shaped sign on the left side of the vehicle which shall consist of black or yellow reflective letters no less than five inches in height which shall state “SLOW.” This sign shall be located at a height of between five feet and eight feet above ground level and shall be displayed at a 90 degree angle to the left side of the vehicle whenever it is stopped for the purpose of vending.

3. Two amber lights, each five inches or greater in diameter mounted on the left and right front, and two amber lights, each five inches or greater in diameter mounted on the left and right rear of the vehicle. Said amber lights shall flash alternately from the opposing light on the same end (front or rear) of the vehicle and be sufficiently bright to be visible from a distance of 500 feet during daylight conditions, whenever the vehicle is stopped for the purpose of vending.

k) All food or beverage vending vehicles shall be operated in strict compliance with the City traffic ordinances and the Illinois Vehicle Code.

l) Whenever a food or beverage vending vehicle stops to make a retail sale, said vehicle shall drive to the right side of the road and park adjacent to the curb, in a location that is otherwise a legal parking spot. No vending shall occur in no parking zones, or in any location that blocks any fire hydrant, driveway, sidewalk, roadway, or right of way. No retail sale shall occur to any person who is standing in a public roadway.

m) No food or beverage vending vehicle shall remain in any one location on a public right of way for the purpose of vending for more than fifteen minutes at a time, except with the express permission of the City Police Department.

n) All vending shall occur from the right, or passenger side of the vehicle, through a door or window designed for the same, with the vehicle stationary and in park, with the parking brake applied. In the case of any motor vehicle used for vending, no person shall occupy the driver’s seat of said vehicle at any time the vehicle is engaged in retail sales.

o) No retail sales shall occur before 9:00am or after sunset on any day, except with the express, written permission of the City Police Department.

p) No food or beverage vending vehicle shall be operated by any person who is afflicted with or who is the carrier of any infections or contagious disease which may be passed by vending or retail sales.

q) Each motorized food or beverage vending vehicle utilized within the City shall display a current Illinois vehicle safety sticker evidencing a current safety test inspection from a licensed Illinois safety lane inspection station, whether or not such sticker would be customarily required for said vehicle in the absence of this Ordinance.

r) No food or beverage vending vehicle shall vend directly to another vehicle. Vending shall be to pedestrians only.

s) No retail sales shall occur within 100’ of the nearest intersection of public roadways.

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t) No retail sales shall occur on private property and no food or beverage vending vehicle shall be operated on any private property except with the permission of the property owner.

u) No retail sales shall occur in any public parking lot and no food or beverage vending vehicle shall be operated in any public parking lot, except with the express written permission of the City Police Department.

v) No food or beverage vending vehicle shall be operated and no retail sales shall be conducted within 500’ of any City sponsored or authorized activity in any City park or open space where food concessions are available and open.

w) No alcoholic beverages, tobacco products, or other products which are age-restricted under applicable federal, state or local law, shall be offered for retail sale from any food or beverage vending vehicle.

x) No food or beverage vending vehicle shall be utilized to solicit retail sales on any street with a speed limit in excess of 25mph within the limits of the City, nor on a street with 3 or more lanes for moving traffic. No food or beverage vending vehicle shall be utilized for retail sales on any street with a speed limit in excess of 25mph.

y) No food or beverage vending vehicle which is attempting to solicit retail sales shall be operated at a speed in excess of the lesser of: 1) 15mph; or, 2) such speed which is safe in response to the conditions and traffic encountered.

z) No food or beverage vending vehicle shall utilize any strobe or revolving light to attempt to solicit retail sales or advertise the presence of said food or beverage vending vehicle while in operation in the City.

aa) No food or beverage vending vehicle shall utilize any or noise or sound amplification device or music to solicit retail sales or advertise its presence, except while stationary and parked in a lawful location. Any music, noise or sound amplification used must be in compliance with all applicable local, state and federal regulations and: 1) must be at a volume that does not create a nuisance; 2) must be at a volume such that the music or noise cannot be heard from more than 300’ from said food or beverage vending vehicle; and, 3) must be at a volume that does not create a public hazard.

bb) No food or beverage vending vehicle or operator thereof shall operate any camera or video camera at any time while in the City, except that a single, rear-mounted video camera may be utilized for reversing operations, provided that no recording is made from said camera.

cc) The operator of any food or beverage vending vehicle shall report and pay sales taxes, with such sales taxes being reported as originating within the City, where required under applicable Illinois law. The operator shall also remit any required Restaurant and Bar taxes required under City Code.

33.14 APPROACH TO FOOD OR BEVERAGE VENDING VEHICLE.

Any person operating any motor vehicle, upon approaching a food or beverage vending vehicle which is stopped or parked within the City with its amber lights flashing and sign displayed as described in 33.13 above, shall reduce the speed of his or her vehicle to a speed which is safe for the conditions and the presence of any pedestrian traffic, not in excess of 15 mph, while within 300’ of said food or beverage vending vehicle. If there appear to be pedestrians engaging in retail sales at such food or beverage vending vehicle, each vehicle

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approaching shall come to a complete stop within 25' of said food or beverage vending vehicle, and shall proceed past said food or beverage vending vehicle with due caution for all pedestrian, bicycle and foot traffic.

33.15 PENALTIES.

Unless expressly identified with a higher fine above, a violation of any provision of this Ordinance shall be an unlawful ordinance violation, with a minimum penalty of \$300. Each day that said violation is permitted to persist shall be a separate violation, punishable by fine. In the case of recurrent conduct on a single day, in the event a person is issued a citation for unlawful activity and, following the issuance of said citation, re-engages in the same or substantially similar unlawful conduct on that same day, each incident of conduct occurring after the issuance of the original citation shall be a separate offense, punishable by an individual fine.