

CHAPTER 6

LICENSES & PERMITS

ARTICLE I

**Door-to-Door Salesmen, Vendors, Peddlers and Solicitors
(Amended 08/08/11)**

SECTION 6-1: DEFINITIONS

For the purpose of this Chapter the terms defined in this section have the meanings ascribed to them:

“PEDDLER” means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, services, or merchandise and offering or exposing the same for sale or making sales and deliveries to a purchaser.

“SOLICITOR” means any person who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for any goods, wares, services, or merchandise including books, periodicals, magazines, cleaners, meats, or personal property of any nature whatsoever for future delivery.

“TRANSIENT MERCHANT” means any person, firm, or corporation who engages temporarily in the business of selling and delivering goods, wares, services, or merchandise within the Village, and who, in the furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle or trailer.

SECTION 6-2: PERMIT REQUIRED

(A) It shall be unlawful for any person, club, company, corporation, organization or business to engage in the business or occupation of door-to-door selling, peddling, or soliciting within the Village of Lena, Illinois without first having obtained a permit, therefore, in accordance with the terms and provisions of this Ordinance. No person, club, company, corporation, organization, or business shall be deemed fully licensed until a permit has been actually issued and delivered to the applicant.

SECTION 6-3: APPLICATION/PERMIT FEE

(A) Any person desiring to solicit orders for goods, wares, services or merchandise for the purpose of disposing of them in any manner shall make application in person on a form supplied by the Village Clerk. A permit fee of \$25.00 per day/per license application will be paid in advance of issuing the license and is non-refundable. The application shall be filed 48 hours before the permit is to be issued and shall state the following:

- (1) Name, address, and phone number of applicant.
- (2) The type of business for which the license is desired.
- (3) Name, address and phone number of the business.
- (4) The length of time for which the license is desired.
- (5) A general description of the goods, wares, services or merchandise to be sold.
- (6) Signature of the applicant.

Every applicant must provide a valid driver's license or a State issued identification card (if they don't possess a driver's license) and a valid vehicle registration and proof of insurance for each vehicle which will be used by the license holder (s). The Village of Lena Police Department will conduct a criminal background check on every applicant.

SECTION 6-4: LICENSE NOT TRANSFERABLE

(A) Any license issued under the provisions of this Chapter shall not authorize any person, other than the person named in said license, to engage in business hereunder and such license shall not be transferable. Every applicant licensed hereunder shall have the license received by the Village Clerk with them while engaged in such business and shall produce said license at the request of any public official or at the request of any individual, within the Village, to whom they are exhibiting goods, wares, services or merchandise to be sold. The license may be renewed at its expiration provided it has not been suspended or revoked and is subject to payment of the \$25.00 per day/per license permit fee.

SECTION 6-5: RESTRICTIONS ON PERMIT

No permit shall be issued to:

- (A) A person who does not provide or refuses to provide all the information on the application.
- (B) A person whose permit issued under this Ordinance has been revoked for cause.
- (C) A person who has been convicted of a criminal felony, registered sex offender, or a misdemeanor conviction, including but not limited to, theft, forgery, deceptive practices, or drug charges.
- (D) A person who is under eighteen (18) years of age.
- (E) A person who is not a citizen of the United States.

SECTION 6-6: HOURS OF OPERATION

(A) A license holder is allowed to solicit only during the following hours:

- | | |
|--------------------------|---------------|
| (1) October 1 – April 30 | 9:00am-5:00pm |
| (2) May 1 – September 30 | 9:00am-7:00pm |

Weekend and holiday hour are prohibited in the Village of Lena.

SECTION 6-7: PAYMENT OF FEES

(A) Applications for a permit hereunder shall at the time of application pay a permit fee of \$25.00 per day/per license which is no-refundable. The application shall be filed 48 hours in advance of issuing a license to allow for the Village of Lena Police Department to conduct the criminal background check on each applicant.

SECTION 6-8: REVOCATION OR SUSPENSION

(A) Any license, issued under the provisions of this Chapter, shall be subject to suspension or revocation by the Village upon satisfactory proof of a violation of the provisions of this Chapter by such licensee. In the event the licensee commits a criminal act, other than a traffic violation, or is involved in any act that can be construed as harassment, intimidation, or threats of personal harm, the license may be seized by any law enforcement officer and the licensee banned from further peddling, soliciting or

selling within the Village. Any licensee who loses their license by seizure may not receive a refund for any time remaining on the license.

SECTION 6-9: EXPIRATION OF PERMIT

(A) Each license issued or granted hereunder shall be for a period on one (1) day based on the hours of operation as contained within Section 6-6 of this Chapter.

SECTION 6-10: EXCEPTIONS

(A) This Ordinance shall not apply to sales made by commercial travelers or selling agents in the usual course of business with bona fide dealers, nor bona fide sales of articles by sample, for delivery at a future date, nor sales conducted pursuant to statute or by order of any court, nor to bona fide auction sales conducted by an auctioneer duly licensed under the statutes of the State of Illinois, nor to persons selling or peddling the products of the farm or garden cultivated by them. Examples of such exclusions would include, but not limited to, Schwan's, Lena Farmer's Market, vendors at Lena Fall Festival/Ladies Day Out/Business Expo, local or resident charities, area churches, school or non-for-profit organizations, (i.e. sports association, music/athletic boosters, boy/girl scout troops, etc.)

SECTION 6-11: VIOLATIONS

(B) Any person found to be in violation of any provision of this Chapter, shall be fined \$100.00 - \$500.00.

Each day continuing violation exists may be deemed a separate offense.

**ARTICLE II
GENERAL BUSINESS REGULATIONS**

SECTION 6-12: APPLICATIONS

Applications for all licenses and permits required by Ordinance shall be made in writing to the Village Clerk in the absence of provision to the contrary. Each application shall state the name of the applicant, the license or permit desired, the location to be used. If any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the Village officials in the issuing of the license or permit applied for.

SECTION 6-13: PERSON SUBJECT TO LICENSE

Whenever in this code a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefore, actively or passively; or performs or attempts to perform any part of such business or occupation in the Village.

SECTION 6-14: FORMS

Forms for all licenses and permits, and applications, therefore, shall be prepared and kept on file by the Village Clerk.

SECTION 6-15: SIGNATURES

Each licenses or permit issued shall bear the signature of the President and the Village Clerk in the absence of any provision to the contrary.

SECTION 6-16: LICENSE YEAR

(A) The license year for the Village shall begin on May 1 and end on April 30 of each year.

(B) The Village Clerk shall mail to all licensees of the Village a statement of the time of expiration of the license held by the licensee, if an annual one, three weeks prior to the date of such expiration. Provided, that a failure to send out such notice, or the failure of the licensee to receive it, shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action of operation without a license.

SECTION 6-17: BUILDING AND PREMISES

No license shall be issued for the conduct of any business, and no permit shall be issued for anything or act, if the premises and building to be used for the purpose do not fully comply with the ordinance requirements of the Village. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning ordinance of the Village.

SECTION 6-18: CHANGE OF LOCATION

The location of any licensed business or occupation, or of any permitted act, may be changed, provided ten days notice thereof is given to the Village Clerk, in the absence of any provision to the contrary; provided that the building and zoning requirements of the ordinances are complied with.

SECTION 6-19: NUISANCES

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.

SECTION 6-20: INSPECTIONS

(A) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the Village who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee of the Village whose business is governed by such provision to give to any authorized officer or employee of the Village requesting the same sufficient samples of such material or commodity for such analysis upon request.

(C) In addition to any other penalty which may be provided, the President may revoke the license of any licensed proprietor of any licensed business in the Village who refuses to permit any such officer or employee who is authorized to make such inspection or take such samples to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection. Provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the Village, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

SECTION 6-21: REVOCATION

Any license or permit for a limited time may be revoked by the President at any time during the life of such license or permit for any violation by the licensee or permittee of the ordinance provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied; such revocation may be in addition to any fine imposed.

SECTION 6-22: TERMINATION OF LICENSES

(A) All annual licenses shall be terminated on the last day of the fiscal year of the Village, where no provision to the contrary has been made.

(B) The Village Clerk shall mail to all licensees of the Village a statement of the time of expiration of the license held by the licensee, if an annual one, three weeks prior to the date of such expiration. Provided, that a failure to send out such notice, or the failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action for operation without a license.

SECTION 6-23: INVESTIGATIONS

Upon the receipt of an application for a license or permit where ordinances of the Village necessitate inspection or investigation before the issuance of such license or permit, the Village Clerk shall refer such application to the appropriate Village official. The person or entity charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise. All investigations except where otherwise provided shall be made by a person or entity as designated by the President and Board of Trustees from time to time.

SECTION 6-24: FEES

In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefore is made to the Village Clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business has been or will be conducted. Except as otherwise provided, all license fees shall become a part of the corporate fund.

SECTION 6-25: POSTING LICENSE

Except as provided herein, it shall be the duty of any person conducting a licensed business in the Village to keep his license posted in a prominent place on the premises used for such business at all times.

**ARTICLE III
Outdoor Parklets and Sidewalk Cafes**

- 6-26 Definition
- 6-27 License
- 6-28 Application
- 6-29 Sales of alcohol
- 6-30 Insurance and security
- 6-31 Fees and duration
- 6-32 Transfer; personal privilege
- 6-33 Termination; revocation; suspension

SECTION 6-26: DEFINITIONS

For the purpose of this Article III, the following terms shall have the stated meanings:

“Outdoor Parklet” is defined as a space within a Village right-of-way, excluding sidewalk areas, that is to be utilized to maintain movable outdoor furniture and will provide space for the consumption of food or beverage. A parklet is a sidewalk extension that provides more space and amenities for people using the street. Usually parklets are installed on parking lanes and use several parking spaces. Parklets typically extend out from the sidewalk at the level of the sidewalk to the width of the adjacent parking space. The parklet premises will be defined as a space no less than one space and no greater than three parking spaces boarded by a removable barrier that can be of a nature determined by the owner.

“Sidewalk Cafe” means any portion of an eating and drinking place located on a public right-of-way that provides food or beverage service and is either enclosed or unenclosed, operated by any inn, restaurant, eating place, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, soft drink parlor, ice cream parlor, tea room, delicatessen operation, hotel, motel or other facility licensed by the Stephenson County Health Department where food and beverages are sold at retail in the Village, or where food is prepared for immediate consumption and sold by a business which provides for on-premises consumption of said food, whether or not such facility is situated in an established, permanent business location and whether or not such facility is in connection with some other endeavor or enterprise. The term "sidewalk cafe" does not include any drive-in restaurant, buffet, movie theater, mobile food or beverage or ice cream vehicle, club, public or private school or boarding house.

SECTION 6-27: LICENSE

1. No person shall establish or utilize an Outdoor Parklet or Sidewalk Café without first having obtained a license from the Village.
2. Any person or business desiring to utilize both sidewalk and street right-of-way shall be required to hold both sidewalk café and parklet licenses. The Village President or his/her designee may designate the duration of the Outdoor Parklet or Sidewalk Café license and any dates or times on which any such license is not valid.

SECTION 6-28: APPLICATION

1. Application for an outdoor parklet license shall be in writing to the Village President or his/her designee. The application shall state the following:
 - a. The size of the space or parking space(s) intended to be used or maintained along with a sketch of the same to include all dimensions of the Outdoor Parklet or Sidewalk Café area, fencing, lighting, ingress and egress. Fencing or removable barrier must delineate the perimeter of the area.
 - b. Description or photo of furniture to be used;
 - c. Description of the food and drinks to be offered for sale;
 - d. Number of patrons proposed to be accommodated;
 - e. The purpose for which it is to be used and how the extended premises will be supervised and maintained;

- f. A written plan detailing the measures which the applicant expects to take to ensure compliance with the conditions established hereby for an outdoor parklet license;
 - g. A statement by applicant that said applicant will, in consideration of being issued a license for the use of surface space, agree to hold harmless the Village and the officers and employees of the Village for any loss or damage arising out of the use; and
 - h. Such other information as the Village President shall require.
2. The Village President shall be entitled to seek the opinion and advice of the Village Engineer, Village Attorney, Streets Department, Police Chief, or any other Village official in his or her review of an application.
 3. The Village President may, at his or her sole discretion, establish a combined application for both outdoor parklets and sidewalk cafés for ease of preparation, but the combination of any such applications shall in no way excuse the requirement of having separate licenses for any outdoor parklet or sidewalk café, even if the boundaries of the areas are contiguous.

SECTION 6-29: SALES OF ALCOHOL

No alcohol may be served in an outdoor parklet or sidewalk café unless under an appropriate license for the premises permitting outdoor sales of alcoholic liquor and encompassing the area to be utilized for sales or service of alcoholic liquors in accordance with Chapter 3 of this ordinance. Fees for the license to serve alcohol outside per Chapter 3 are in addition to the parklet and/or sidewalk café fee. Alcoholic liquor may not be transported in to or out of the Outdoor Parklet or Sidewalk Café, except by an employee of the Liquor License holder, or a patron over the age of 21, taking alcohol directly to and from the Liquor License holder's Licensed Premises.

SECTION 6-30: INSURANCE AND SECURITY

1. Each applicant shall furnish proof of insurance evidencing commercial general liability insurance with limits deemed "normal and customary" for this type of license. The insurance shall provide for thirty days prior written notice to be given to the Village Office if coverage is substantially changed, canceled or non-renewed.
2. The Village shall be named as an additional insured on a primary, noncontributory basis and at insurance limits as required by the Village's insurance provider, for any liability arising directly or indirectly from the operations of an outdoor parklet or sidewalk café; and the licensee shall indemnify, defend and hold the Village harmless from and against any and all losses, costs, damages or expenses to persons or property including property of the Village, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the Village, any such claims or suits, provided that the Village may, at its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations under this section.
3. If alcoholic beverages will be served at a parklet or sidewalk café, the applicant shall provide proof of dram shop insurance as required by Chapter 3 of this code.
4. Each permittee shall maintain the insurance coverage required under this section for the duration of the permit. The proof of insurance shall be presented to the Village President prior to the issuance of any license under this chapter. Failure of the permittee to maintain the required insurance for the duration of the license shall result in the immediate revocation of said license.

5. A separate policy of insurance shall not be required under this section if the general policy of insurance provided to satisfy the requirements of Chapter 3 Alcoholic Beverages, of this Code specifically addresses the requirements of this section. If the permittee has both a sidewalk café and parklet permit for the same licensed location, separate policies shall not be required for each permit, but the certificate provided shall provide coverage for all areas for which any permits are issued.

SECTION 6-31: FEES AND DURATION

The fee for licenses issued hereunder are as follows:

1. Outdoor Parklet: \$50.00
2. Sidewalk Café: \$50.00

Any license issued pursuant to this chapter shall be valid from April 1 of a given year to November 1 of the year in which it is issued. Applications may be submitted on or after February 1 of the calendar year in which the license is to be granted. In the event two or more applications for the same right-of-way space are received simultaneously, a lottery shall be conducted to determine which application will have precedence over the other(s).

SECTION 6-32: TRANSFER; PERSONAL PRIVILEGE

No license issued pursuant to this chapter may be transferred or assigned. The license shall be construed as a privilege granted to the licensee and shall not create any vested rights to renewal or continuation.

SECTION 6-33: TERMINATION; REVOCATION; SUSPENSION

1. In the event of cessation of business by the licensee at the licensed address for more than seven consecutive days, the license granted hereunder shall automatically terminate. Unless revoked or terminated, the license shall remain valid indefinitely if all required fees are properly and timely paid to the Village.
2. The Village President may alter, revoke, or suspend the license if:
 - a. The licensee violates any provision of the license agreement or this Code;
 - b. The Village President concludes that it would be necessary or convenient for the Village to perform any work in the licensed area of the public property or right-of-way; or to reclaim that area for pedestrian or other public use; or
 - c. The use of the licensed area causes public disruption.
3. If any licensed area is not vacated and such use not discontinued by the time specified, the Village may remove from such area any property left thereon at the risk and expense of the licensee.

SECTION 6-34: CONSENT TO LICENSE AGREEMENTS

The Village President or his/her designee is empowered to enter into license agreements giving the consent of the Village to use Village right-of-way for outdoor parklets. The minimum requirements for an agreement are as follows, and each provision hereof shall be deemed part of an agreement between the Village and the licensee as of the time of date the license is granted. By making application for any

license under this chapter, the licensee shall be deemed to have entered into an agreement with the Village containing the following material terms:

1. The licensee shall properly supervise and maintain the property in a clean, orderly, and safe condition and in such a manner as to protect the public health and safety. All tables, chairs, umbrellas, and any other objects provided with an outdoor parklet shall be maintained with a clean and attractive appearance and shall be in good repair at all times.
2. The licensee shall use positive action to assure that its use of any right-of-way in no way interferes with pedestrian or vehicular traffic, any adjacent parking spaces being utilized as such, or limits the free, unobstructed passage of pedestrians.
3. The licensee shall prevent the accumulation, blowing and scattering of trash, garbage, or any other such debris caused or permitted by the licensee's use of the property or by any person's use of the property during the time periods of said license. The licensee shall retrieve and properly dispose of any debris scattered onto adjacent property caused by any use of the property under the license, and, additionally, shall maintain its own trash containers upon the property for disposal of any debris.
4. The licensee shall assure compliance with pedestrian minimum clear path guidelines of the Americans with Disabilities Act of 1990, as amended.
5. The license shall not restrict ingress and egress to the property during the time periods of such license except as needed as to comply with current liquor laws.
6. The licensee shall be strictly responsible that no customer, employee (except in the ordinary course of doing business), or other person be permitted to remove alcoholic liquor from the area designated in the relevant outdoor parklet or sidewalk café license(s). Compliance with all Village liquor codes, rules and regulations and any and all conditions as determined by the Village President shall be observed.
7. The hours of outdoor liquor consumption within the Parklet or Sidewalk Cafe shall be limited so as to end at or prior to 10:00 p.m.
8. Alcohol shall not be sold or dispensed within the any outdoor parklet area or sidewalk café, except as specifically authorized by a valid permit authorizing outdoor sales of alcoholic liquors pursuant to Chapter 3 of the Village of Lena Municipal code.
9. The licensee shall not erect, attach, or affix any permanent fixture upon any public right-of-way.
10. The licensee shall remove all outdoor furniture from the property during any time period when the license for the property is not in effect. No furniture or any parts of an outdoor parklet or sidewalk café shall be attached, chained, or in any manner affixed to any tree, post, signs, sidewalk, streetlight, fire hydrant, or other public fixture within or near the licensed area.
11. The licensee shall not impede any maintenance activity conducted by the Village or impair ingress or egress to the premises of any other person.
12. The licensee shall not be permitted to use or operate any public address system, or similar device.

13. The licensee shall be allowed to provide amplified or piped-in music at volumes that will not disrupt the surrounding properties or businesses within the licensed property during the hours of operation, but no earlier than 11:00 a.m. and no later than 1:00 a.m.
14. No advertising shall be permitted on or in any outdoor parklet or sidewalk café except a sandwich board portable sign. Such sign shall not be located in the traveled roadway or unreasonably block pedestrian traffic and shall be moved indoors daily at the end of business hours. Such sign shall not exceed eight square feet in area and four feet in height. If applicable, a scale drawing of the sign shall be included as part of the license agreement.
15. Should the licensee breach any section of the agreement, the Village may perform such cleaning or removal as it considers in its best interests, and the licensee shall reimburse the Village for the cost thereof.