

Page County, VA
Thursday, October 27, 2016

Chapter 91. Peddling and Soliciting

[HISTORY: Adopted by the Board of Supervisors of the County of Page as indicated in article histories. Amendments noted where applicable.]

Article I. Peddling, Soliciting, Itinerant Merchants and Direct Sales

[Adopted 8-17-2010^[1]]

[1] *Editor's Note: This ordinance also repealed former Ch. 91, Peddling and Soliciting, consisting of Art. I, Soliciting, adopted 2-11-1980 as Ch. 8, Art. I, of the 1980 Code, as amended.*

§ 91-1. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

DIRECT SELLER

Any person who:

- (1) Engages in the trade or business of selling or soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business; and
- (2) Receives remuneration for such activities, with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than to the number of hours worked; and
- (3) Performs such activities pursuant to a written contract between such person and the person for whom the activities are performed and such contract provides that such person will not be treated as an employee with respect to such activities for federal tax purposes, as the term is defined and used in § 58.1-3719.1, Code of Virginia (1950), as amended.

ITINERANT MERCHANT

Any person who engages in, does, or transacts any temporary or transient business in this County and who, for the purpose of carrying on such business, occupies any location for a period of less than one year, as the term is defined and used in § 58.1-3717, Code of Virginia (1950), as amended.

PEDDLER

Any person who shall carry from place to place any goods, wares, merchandise or services and offer to sell or barter the same, or actually sell or barter the same, as the term is defined and used in § 58.1-3717, Code of Virginia (1950), as amended.

RESIDENCE

The terms "residence," "residences" and "residential premises" shall be given their usual meaning and shall include any structure which is designed for use for human habitation, including hotels, boardinghouses, lodging houses, tourist cabins, motels, inns, trailers, mobile homes and tourist homes.

- B. Any terms or words not specifically defined shall have their usual and customary American English language meanings.

§ 91-2. Application for permit; information required; background check.

All peddlers, itinerant merchants or direct sellers, engaged in "for-profit" business activities, before engaging in any business activity or entering into or upon any residential premises within the County for the purpose of peddling, soliciting or selling anything, shall receive a permit application from the County Treasurer upon payment of the nonreturnable application fee to cover the costs of the investigation and the processing of the application.

- A. The application form provided to the applicant by the Treasurer shall be completed by the applicant, who shall verify the accuracy of the information contained therein upon oath and under penalty of perjury, which shall include the following:
- (1) The name, local and permanent address, age, date of birth, social security account number, taxpayer identification number, race, weight, height, color of hair and eyes and any other distinguishing characteristics of each applicant.
 - (2) The nature or purpose for which the business contacts will be made and the nature of the goods, wares, merchandise and services offered for sale and the geographical areas of the County in which solicitations will be made or goods, wares, merchandise and services will be offered.
 - (3) The name and permanent address of the employer or organization represented, the taxpayer identification number of the employer, the legal status of the employer (corporation, partnership, proprietorship, LLC, etc. and the state issuing the certificate of fictitious existence), the chief executive officer of the business and his/her telephone number and address, if different from the named employer.
 - (4) A statement as to whether the applicant has been convicted of any felony or misdemeanor or is on probation or under an order of deferred disposition without conviction, and, if so, the nature of the offense, the name and address of the prosecuting jurisdiction and the penalty or punishment assessed therefor.
- B. Each individual engaging in such activities in Page County, whether actually going upon residential premises or operating a vehicle or riding in a vehicle conveying such persons for these activities, must make application to the Treasurer in person and shall pay to the Treasurer the fees hereinafter provided before being given the application form.
- C. Each applicant shall present the completed application to the Page County Sheriff's Department and shall permit a background check to be run on the applicant through the VCIN, NCIC and any other law enforcement database deemed necessary by the Sheriff or his designee. Each applicant shall also permit his fingerprints and a photograph of his likeness to be taken by the Sheriff.

§ 91-3. Issuance of permit.

Each applicant shall return to the Office of the Commissioner of the Revenue with the completed application, bearing the Sheriff's certificate of an unobjectionable background check, and, upon completion of the business-licensing application and payment of the permitting fees and business-license taxes, the Commissioner of the Revenue shall issue the requisite permits.

§ 91-4. Term of validity; display.

A permit issued under this article shall be valid for the remaining period of the calendar year in which the permit was issued. Any permit so issued by the County shall have a photograph of the solicitor on the permit and shall state the term of the validity of the permit, and the solicitor shall display such permit on his or her person in plain view at all times while engaged in soliciting and shall allow such permit to be inspected by any person if demand is made for such inspection while the person is engaged in soliciting.

§ 91-5. Fees.

Upon application, a nonreturnable fee, to be established by the Board of Supervisors from time to time by resolution, shall be paid to the County Treasurer to cover the cost of investigation and processing of the application. An additional fee, to be established by the Board of Supervisors from time to time by resolution, shall be paid to the Treasurer upon issuance of the permit.

§ 91-6. Prohibited acts.

No person shall:

- A. Enter into or upon a residential premises in the County under false pretenses to peddle or solicit for any purpose or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.
- B. Remain in or on any residential premises after the owner or occupant has requested any such person to leave.
- C. Enter upon any residential premises for soliciting when the owner or occupant has displayed a "No Soliciting" sign, or sign of similar import, on such premises.
- D. Engage in the practice of peddling, soliciting, itinerant sales or direct selling in the County without a permit as provided for in this article.
- E. Knowingly give false information or withhold correct information in obtaining a permit.

§ 91-7. Exemptions.

The provisions of this article shall not apply to:

- A. Any person who visits any residence at the request or invitation of the owner or occupant thereof.
- B. Members of any nonprofit civic or charitable organization who have an approved means of identification provided by such organization and who have provided a list of the names, addresses

and ages of their soliciting members and a specimen copy of the approved means of identification issued by such organization to the Sheriff of Page County.

- C. Students in the public and private elementary and secondary schools of Page County, Girl Scouts, Brownies, Boy Scouts, Cub Scouts, Explorers, church youth groups, youth clubs and youth athletic leagues engaged in fundraisers for their organizations.
- D. Newsboys soliciting subscriptions to any newspaper for home delivery within the County.
- E. Route deliverymen who make deliveries at least once a week to regular customers and whose solicitation is only incidental to their regular deliveries.
- F. A farmer or producer of agricultural products or nursery products who sells only the farm or agricultural products or nursery products produced or grown by him.
- G. A distributor or vendor of seafood who catches seafood and sells only the seafood caught by him.
- H. Any person licensed under Title 38.2 (Insurance) of the Code of Virginia.

§ 91-8. Appeal of denial.

Any person aggrieved by a denial of an application for a permit may seek a review of that decision by filing in writing an appeal to the Board of Supervisors within 30 days of the date of the adverse ruling. The Board shall place the matter on the agenda of its next available meeting occurring not sooner than 10 days from the date of the appeal. Further appeals from adverse rulings of the Board of Supervisors shall be filed in the Circuit Court of Page County within 30 days of the date of the adverse ruling.

§ 91-9. Violations and penalties.

If any person violates any provision of this article, such person shall be guilty of a Class 1 misdemeanor which shall be punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Each day that a violation continues to exist shall constitute a separate offense.

Article II. Restrictions on Soliciting and Begging

[Adopted 4-21-2015]

§ 91-10. Purpose.

The purposes of the solicitation restrictions imposed under this article are to:

- A. Reduce the detrimental effect that threatening and intimidating conduct has on a safe environment in the County;
- B. Restrict certain aggressive acts of solicitors without prohibiting constitutionally protected activity; and
- C. Maintain the peace and order of the County and preserve and protect the rights of all citizens to be free of intimidation.

§ 91-11. Definitions.

- A. The following words, terms, or phrases shall have the following meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

AGGRESSIVE MANNER

Means and includes:

- (1) Touching or causing physical contact with another person without that person's consent in the course of soliciting, asking, or begging;
- (2) Blocking the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting, asking, or begging;
- (3) Approaching or following the person being solicited, if that conduct is:
 - (a) Intended to or is likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or
 - (b) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (4) Continuing to solicit the person being solicited after the person has made a negative response, if continuing the solicitation is:
 - (a) Intended to or is likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or
 - (b) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (5) Using violent, obscene, or threatening gestures or language toward a person solicited, if such conduct is intended to or is likely to cause a reasonable person to fear bodily harm to oneself, or the commission of a criminal act upon the person or upon property in the person's possession or otherwise be intimidated into giving money or other thing of value or buying merchandise.

PUBLIC AREA

An area to which the public has access, including, but not limited to: alleys, bridges, buildings, driveways, parking lots, playgrounds, sidewalks, streets open to the general public, and the doorways and entrances to public buildings, together with the grounds enclosing them.

SOLICIT, ASK or BEG

Using the spoken, written, or printed word or bodily gestures, signs, or other means for the purpose of soliciting a ride, contributions, employment, business, or with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services regardless of the solicitor's purpose or intended use of the money or other thing of value.

- B. Any terms or words not specifically defined shall have their usual and customary American English language meanings.

§ 91-12. Restrictions.

No person shall solicit, ask, or beg in an aggressive manner, as defined herein, in any public place; or solicit, ask or beg:

- A. In any public transportation vehicle, or bus station or stop; provided, however, that this subsection shall not apply to services rendered in connection with such transportation services.
- B. Within 30 feet of any entrance or exit of any bank during the hours of operation of such bank.
- C. Within 30 feet of any automated teller machine, during the hours of operation of such machine.
- D. On private property, if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating those solicitations are not welcome on the property.

§ 91-13. Exceptions.

The provisions of this article shall not apply to any person soliciting transportation in the case of a bona fide emergency, or from public transportation or transportation for hire. Acts constituting an exercise of a person's constitutional right to picket, protest, or speak and acts authorized by a permit issued by the County shall not constitute unlawful activity under this article; nor does aggressive solicitation include solicitation without engaging in the acts specifically prohibited by this article.

§ 91-14. Violations and penalties.

Any person convicted of a violation of this article shall be guilty of a Class 2 misdemeanor. Any person convicted of a second or subsequent violation of this article shall be guilty of a Class 1 misdemeanor.