

VILLAGE OF NEWARK
KENDALL COUNTY, ILLINOIS
ORDINANCE NO. 2007-12-1

**AN ORDINANCE REGULATING SOLICITING IN
THE VILLAGE OF NEWARK, KENDALL COUNTY, ILLINOIS**

PASSED BY THE VILLAGE BOARD OF TRUSTEES
THIS 12 DAY December, 2007

Published in pamphlet form by Authority of the Board of Trustees
of the Village of Newark, Kendall County, Illinois, this 12th day of December, 2007

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THE VILLAGE OF NEWARK, KENDALL COUNTY, ILLINOIS

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF NEWARK, KENDALL COUNTY, ILLINOIS, as follows:

Section 1: Ordinance No. 1983-10 which previously regulated soliciting in the Village of Newark is repealed immediately.

Section 2: DEFINITIONS:

For the purpose of this chapter, the following words as used herein shall be construed to have the meanings herein ascribed:

HAWKER: One who carries goods about and sells them by offering them in the streets. His sales are not made from one established spot, excepting where they are made in the street or other public place and he makes delivery at the time of sale. Whether or not he collects at the same time is immaterial.

ITINERANT MERCHANT: One who sells commodities from private premises but remains at one place for the purpose of temporary periods only, generally not more than six (6) weeks. Examples include: temporary Christmas tree sales and temporary legal firework sales. Also called transient merchant or transient vendor.

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

SOLICITING: Includes any one or more of the following activities:

- A. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, and services of any kind, character or description whatever, for any kind of consideration whatever; or
- B. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- C. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication; or
- D. Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

E. Hawking or doing business as an itinerant merchant.

SOLICITOR: One who engages in acts of "soliciting" as defined above (also includes hawkers and itinerant merchants).

Section 3: CERTIFICATE OF REGISTRATION REQUIRED:

Every person desiring to engage in soliciting, hawking or business as an itinerant merchant within the village is hereby required to make written application for a certificate of registration as hereinafter provided. It shall be unlawful for any person to engage in soliciting, hawking or business as an itinerant merchant without having first obtained said certificate of registration. Said certificate shall be carried by the applicant while engaged in soliciting, hawking or business as an itinerant merchant and shall be displayed for inspection upon request.

Section 4: APPLICATION FOR CERTIFICATE:

A. Application for a certificate of registration shall be made upon a form provided by the Village Clerk or his designee and filed with such clerk or his designee. The applicant shall truthfully state in full the information requested on the application:

1. Place Of Residence; Social Security Number: Name and address of present place of residence of solicitor, hawker or itinerant merchant and applicant and length of residence at such address; also business address if other than residence address; also social security number and date of birth;
2. Previous Residences: Address of place of residence of solicitor and applicant during the past three (3) years if other than present address;
3. Description: Physical description of the solicitor;
4. Name Of Employer Or Representation: Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;
5. Description Of Subject Matter: Description sufficient for identification of the subject matter of the soliciting, hawking or product being sold by the itinerant merchant which the solicitor, hawker or itinerant merchant will engage in;
6. Time Period: Period of time for which the certificate is applied for;
7. Date Of Previous Application: The date, or approximate date, of the latest previous application for certificate under this chapter, if any;
8. Revocation History: Whether a certificate of registration issued to the applicant

under this chapter has ever been revoked;

9. Conviction Of A Violation; History: Whether the applicant or solicitor, hawker or itinerant merchant has ever been convicted of a violation of any of the provisions of this chapter or the ordinance of any other Illinois municipality regulating the activities of solicitors, hawkers or itinerant merchants;

10. Conviction Of A Felony; History: Whether the applicant has ever been convicted of the commission of a felony under the laws of the state of Illinois or any other state or federal law of the United States;

11. Tax Identification Number: Each applicant shall produce an Illinois department of revenue identification number for the retailers' occupation tax. No license shall be issued if the applicant does not have an identification number except that no identification number shall be required of a solicitor, hawker or itinerant merchant sponsored by or working for a religious, educational or charitable organization where such organization is entirely a nonprofit organization and who can furnish the village with a "Tax Exempt Number" and written proof of its "Tax Exempt Status";

12. Consent Of Property Owner: All itinerant merchants must submit a signed statement from the owner of the property from which they are proposing to operate their businesses evidencing permission to do business on the particular owner's property;

13. Health Certificate: Any hawker, solicitor, or itinerant merchant who sells food or beverages from a vehicle or stand shall be required to obtain a health inspection certificate from the Kendall County public health department. Said certificate shall be required to do business under a certificate of registration under this ordinance.

B. All statements made by the applicant upon the application or in connection therewith shall be under oath.

C. The Village Clerk or his designee shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this chapter and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

D. No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the state of Illinois or any other state or federal law of the United States, within five (5) years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter, nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

E. Each itinerant merchant applicant shall pay a two hundred dollar (\$200.00) application fee per application. Each hawker or solicitor applicant shall pay a fifty dollar (\$50.00) application fee per application. No fee shall be charged of a solicitor, hawker or itinerant merchant sponsored by or working for a religious, educational or charitable organization where such organization is entirely a nonprofit organization and who can furnish the village with a "Tax Exempt Number" and written proof of its "Tax Exempt Status".

F. That the above stated registration requirements may be waived by the Village Clerk or his designee if in his discretion he believes that the registration requirements are unnecessary because of his personal familiarity with the individual or groups of persons seeking to solicit within the Village of Newark.

Section 5: ISSUANCE OF CERTIFICATE:

The Village Clerk or his designee, after consideration of the application and all information obtained relative thereto, shall, within ten (10) business days of application, approve or deny the application. If the person does not possess the qualifications for such certificate, as herein required, and the issuance of a certificate of registration to the applicant would not be in accord with the intent and purpose of this chapter, then the Village Clerk or his designee shall deny the application. Endorsement shall be made by the Village Clerk or his designee upon the application of the denial of the application. If the solicitor, hawker or itinerant merchant and applicant are found to be fully qualified, the certificate of registration shall be issued within seven (7) calendar days of the application approval so long as the application fees have been fully paid. Any certificate of registration issued pursuant to this chapter shall expire thirty (30) days after issuance.

Section 6: VILLAGE POLICY ON SOLICITING:

It is hereby declared to be the policy of the board of trustees that the occupant or occupants of any premises in the village shall make the determination of whether solicitors shall be, or shall not be, invited onto their respective premises. Only solicitors having a valid certificate of registration provided in section 3 of this ordinance shall engage in solicitation within the village unless said solicitor has previously been invited by an occupant of the premises. It is further the village's policy that, in the interest of safety, no child under the age of fourteen (14) shall be allowed to solicit in the Village of Newark unless said child is supervised during solicitation by an adult who has registered pursuant to this chapter.

Section 7: NOTICE REGULATING SOLICITING:

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

A. Any owner or resident may restrict solicitation or limit the hours during which solicitors are invited to his or her residence by posting that intention as provided in this section.

B. Notice of the determination by the occupant of the refusal of invitation to solicitors or a restriction on the hours during which solicitation is invited at any residence, shall be given in the manner following:

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

NO SOLICITORS INVITED

or

SOLICITATION LIMITED TO THE HOURS OF:

to .

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

D. Such card, or similar sign, so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

Section 8: DUTY OF SOLICITORS:

It shall be the duty of every solicitor upon going onto any privately owned premises in the village to first examine the notice provided for in section 7 of this ordinance, if any is given or attached, and be governed by the statement contained on the notice. If the solicitor is calling during a time when the resident has restricted solicitation or the notice states: "No Solicitors Invited", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises. Any solicitor who has gained entrance to or who is on any premises, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Section 9: UNINVITED SOLICITING PROHIBITED:

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in "soliciting" as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of section 7 of this ordinance.

Section 10: TIME LIMIT ON SOLICITING:

It is hereby declared to be unlawful and shall constitute a nuisance for any person whether

registered under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in "soliciting" as herein defined, before nine o'clock (9:00) A.M. or after eight o'clock (8:00) P.M., Monday through Friday, or prior to nine o'clock (9:00) A.M. or after five o'clock (5:00) P.M. on Saturday. There shall be no "soliciting", as defined in this chapter, on Sundays or on state or national holidays. Individual owners and residents may further restrict the hours of soliciting on their property by posting a notice pursuant to section 7 of this ordinance.

Section 11: PENALTIES:

If a violation of any of the provisions of this chapter occurs, the village shall issue a citation to the offender and a fine in the amount of fifty dollars (\$50.00). If any individual is found in violation of this chapter for a second or subsequent time the village shall issue a citation to the violator in the amount of five hundred dollars (\$500.00). Said fine shall be paid to the village of Newark no later than ten (10) working days after the violation or else the village shall file a complaint in the circuit court of Kendall County for violation of this chapter.

Section 12: ITINERANT MERCHANTS; PERMIT:

In addition to the application fee set out in subsection 4.E. of this ordinance, itinerant merchants shall be required to obtain a permit from the building and zoning department of Newark. Because of the nonpermanent nature of the structures being operated by itinerant merchants, itinerant merchants shall also be charged a fee of forty dollars (\$40.00) to cover the costs and expenses of periodic safety inspections by the building department of the premises from which sales are being made.

Section 13: SEVERABILITY

This Ordinance is severable and the invalidity or unconstitutionality of any portion thereof shall not affect the remaining portions thereof.

Section 14: EFFECTIVE DATE

This Ordinance shall be in full force and effect upon its passage by the Village Board.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NEWARK, this 12 day of December, 2007.

Ayes 3
Nays 1
Absents 2

ATTEST: Matt John
Clerk of the Board of Trustees of
the Village of Newark

(SEAL)



Jay L. Finkel
President of the Board of Trustees of
the Village of Newark