

ORDINANCE NO. 23-19

AN ORDINANCE AMENDING TITLE 3, BUSINESS REGULATIONS, CHAPTER 7, ITINERANT MERCHANTS, OF THE VILLAGE OF MANTENO MUNICIPAL CODE

BE IT ORDAINED by the President and Board of Trustees of the Village of Manteno, as follows:

Section 1

That Title 3, Business Regulations, of the Village of Manteno Municipal Code, be amended by changing Chapter 7, Itinerant Merchants, to read as follows:

CHAPTER 7

TRANSIENT MERCHANTS, ITINERANT MERCHANTS, AND MOBILE FOOD TRUCKS

SECTION:

- 3-7-1: Definitions**
- 3-7-2: License Required**
- 3-7-3: License Application**
- 3-7-4: Application Review and Issuance**
- 3-7-5: License Fees**
- 3-7-6: License Denial**
- 3-7-7: Prohibited Acts**
- 3-7-8: Penalty**
- 3-7-9: License Suspension and Revocation**
- 3-7-10: Basis for Suspension or Revocation**
- 3-7-11: Appeals**

3-7-1: DEFINITIONS: The following words, terms, and phrases, and their derivations, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Corporate Authorities means the President and Board of Trustees of the Village of Manteno.

Itinerant Merchant means any person who transports tangible personal property for retail sale within the village other than from a fixed location and who does not maintain in the village an established store, office, distribution house, sale house, warehouse service center, or home occupation residence from which such business is conducted. This definition includes without limitation persons who hawk such goods, wares or merchandise

by public outcry, and persons who solicit orders for goods, wares or merchandise by going from place to place in the village. However, this chapter does not apply to any solicitor, as that term is defined in §3-12-1, going door-to-door at private residences, or any person who delivers goods, wares or merchandise in fulfilling an order which was solicited by mail or by electronic means.

Mobile Food Truck means a self-contained food service operation, located in a readily movable, motorized, wheeled or towed vehicle, used to store, prepare, display or serve food intended for individual portion service.

Person means any person, firm, corporation, association, club, society or other organization.

Transient Merchant means any person engaged temporarily in the retail sale of goods, wares or merchandise within the village and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure of any kind, or vacant lot, but who does not maintain in this village an established store, office, distribution house, sales house, warehouse, service center, or home occupation residence from which such business is conducted. A person shall be deemed to be engaged in a business "temporarily" if such person does not own, or lease for a term of at least six months, the property from which such business is conducted.

Village means the Village of Manteno.

Village Clerk means the Village Clerk of the Village of Manteno or his/her assigns.

Village President means the Village President of the Village of Manteno or his/her assigns.

3-7-2: LICENSE REQUIREMENTS: It shall be unlawful for any person, either as principal or agent, to engage in or conduct in this village a business as a transient merchant, itinerant merchant, or mobile food truck without first obtaining a license.

3-7-3: LICENSE APPLICATION: Any person who desires to engage in or conduct business as a transient merchant, itinerant merchant, or mobile food truck shall:

(a) file with the village clerk an application in writing, on a form to be furnished by the village clerk, which shall consist of the following information:

(i) the applicant's name, date of birth, phone number, and last four digits of his/her social security number;

(ii) business name and permanent business address (which must include a street address);

(iii) residence address of the principal (and, if the applicant is anything other than an individual person, the residence address of each of its officers);

(iv) the dates and locations on/at which the applicant intends to conduct business;

(v) the nature of the business the applicant intends to conduct and a complete inventory of goods the applicant intends to offer for sale;

(vi) a copy of the applicant's certificate of registration under the Retailers' Occupation Tax Act;

(vii) the number, description, license plate numbers, and proof of insurance of any vehicles or other means of transportation to be used in the course of business, as applicable;

(viii) proof of possession of any permit or license which, under federal, state or local law, the applicant is required to have in order to conduct the business; and,

(ix) for transient merchants, a copy of a valid lease agreement between the applicant and the lessor or written permission from the owner providing space for such applicant;

3-7-4: APPLICATION REVIEW AND ISSUANCE:

(a) Upon receipt of an application, the village clerk shall review the application to determine if all of the information required by this chapter is present. The village clerk shall deny the license and return the \$50.00 fee, if there exists a reason to deny the same from the face of the application for the reasons set forth in §3-7-6.

(b) Upon there otherwise being no basis to deny the license for the reasons set forth in §3-7-6, the village clerk shall issue the license upon receipt of the license fee from the applicant.

(c) Any license issued pursuant to this chapter shall contain the name and address of the licensee, the name of any employer or principal, the type of license issued, the date of issuance and the date of expiration. The license shall also contain a license number (which shall be a number matching a number listed on the application).

(d) The village clerk shall make a good-faith effort to complete an application review and advise an applicant of his/her decision within five (5) business days. If, upon the expiration of the five (5) business day review period, the village clerk has not advised an applicant of his/her decision to grant or deny a license, an applicant may request, and

the village clerk shall be obligated to issue, a temporary license upon receipt of the applicable license fee from the applicant.

(e) If a temporary license is issued, and further review identifies a basis for which a license should be denied, an applicant shall be immediately notified by telephone that the temporary license is revoked, and his/her application has been denied. In such instance, the license fee shall be returned to the applicant on a pro rata basis. In no event shall an application review take longer than ten (10) business days. At the expiration of ten (10) business days and provided no oral decision has been made concerning the issuance of the license, the applicant may request, and the village clerk shall be obligated to issue a license to the applicant. Once issued, the license shall only be subject to suspension or revocation as provided by §3-7-9 and §3-7-10 of this chapter.

(f) The village clerk shall notify the applicant of his/her decision to grant or deny a license by the telephone number listed on the application. The village clerk shall advise the applicant of the basis for the denial.

(g) If an application is incomplete, the village clerk shall allow the applicant an opportunity to provide the information necessary for his/her review.

(h) In the case of a denial, the village clerk shall issue a written decision advising the applicant why the license was denied. The written decision shall be mailed to the applicant via U.S. Mail at the address contained on the application. The written decision shall be postmarked no later than three (3) business days subsequent to the expiration of the five (5) business day review period or the oral advisement of a denial of a license, whichever is later.

(i) A denial of a license may be appealed in the manner provided in §3-7-11 of this chapter.

(j) A record of all licenses issued and denied pursuant to this chapter shall be maintained by the village clerk for a period of two (2) years.

3-7-5: LICENSE FEES: The fee for a transient merchant, itinerant merchant, or mobile food truck license shall be \$50.00 per day. Non-profit merchants providing an IRS 501(c) determination letter shall be \$25.00 per day. All fees are non-refundable.

3-7-6: LICENSE DENIAL: The village clerk may refuse to issue a license for any of the following reasons:

(a) the applicant failed to supply the required information or documentation in or as a part of its application;

(b) the applicant falsified information on the application;

(c) the applicant's denial of a license issued under this chapter within the immediate past year, unless the applicant can and does show that the basis for the previous denial no longer exists.

The village clerk's denial and the reasons for such disapproval shall be noted on the application.

3-7-7: PROHIBITED ACTS: No person who has been granted a license under this chapter shall:

(a) sell or attempt to sell any goods, wares or merchandise by any fraudulent or deceptive means or practices;

(b) sell or attempt to sell any goods, wares or merchandise which are not identified in the inventory provided to the village, that are not owned by the licensee or by the licensee's principal or employer, or which have been stolen from another person;

(c) remain on private property after being asked to leave by a person with apparent authority thereover;

(d) insist upon showing or selling any goods, wares or merchandise to any person after being informed that such person does not wish to purchase them;

(e) conducting business operations following the lapse or invalidity of any authority or documentation required to be provided and maintained as a part of the licensing process;

(f) conducting business operations from a vehicle or other means of transportation not identified as a part of the application process;

(g) fail to report and pay when due any tax owing to the village or the state;

(h) engage in business within residentially zoned areas of the village;

(i) conducting business operations in such a manner so as to create a public nuisance, constitute a breach of the peace, or endanger the health, safety or welfare of others;

(j) leave any trash or debris from business operations or customers within 100 feet of such operations; or,

(k) violate any other federal, state, county or local law, statute, ordinance, rule, regulation, order and decree of any court or an administrative body or tribunal, order or determination of any governmental authority, while engaging in business.

3-7-8: PENALTY:

(a) Any person found in violation of any of the provisions of this chapter shall be fined no less than \$100 and no more than \$750 for each offense. Each day that a violation occurs or is permitted to continue shall constitute a separate and distinct offense.

(b) Any licensee found in violation of the provisions of this chapter shall, in addition to any fine that may be imposed, be subject to license suspension and/or revocation proceedings.

(c) Violations of this chapter may be administered as a part of license proceedings or separately in accordance with the provisions of Title 1, Administrative, Chapter 17, Administrative Adjudication, of the Code.

3-7-9: LICENSE SUSPENSION AND REVOCATION:

(a) Any license issued under this chapter may be suspended or revoked by the village president after notice and a hearing for any basis identified in §3-7-10 of this chapter. Notice and a hearing prior to a suspension or revocation shall not be given if village president determines that an immediate suspension or revocation is necessary. In such cases, a post-deprivation hearing will be provided.

(b) The village clerk shall provide notice to the licensee via U.S. Mail setting forth the time and place of the hearing. The notice shall consist of the charges for which the license's suspension or revocation is being considered. The notice shall contain the date(s) on which any charge is alleged to have occurred along with the name(s) of any witness(es) that will testify at the hearing. Any written or tangible evidence of the occurrence shall be identified in the notice.

(c) A hearing pursuant to this section shall occur no earlier than seven (7) days nor later than fourteen (14) days from the date the notice of hearing is postmarked.

(d) The licensee shall be responsible for obtaining a court reporter in order to preserve the record for appeal.

(e) After the hearing, the village president shall orally advise the licensee of his/her decision to impose any fine and/or suspend or revoke a license under this chapter. After the decision has been orally related to the licensee, the president shall issue a written decision setting forth his/her decision and the basis for the ruling. The written decision shall be mailed to the licensee via U.S. Mail at the address contained in the application. The written decision shall be postmarked no later than five (5) business days subsequent to the hearing.

3-7-10: BASIS FOR SUSPENSION OR REVOCATION: Any license may be suspended or revoked for:

(a) any reason for which a license could be or could have been denied under §3-7-6;

(b) The licensee has been convicted or pleaded guilty to a felony or misdemeanor involving a sex offense, trafficking in controlled substances, crimes of dishonesty (e.g. theft, fraud, deceit, misrepresentation, etc.), or any violent acts against persons or property;

(c) engaging in any activities prohibited by §3-7-7.

3-7-11: APPEALS:

(a) Any person aggrieved by the action or decision of the village clerk or village president to deny, suspend, or revoke a license shall have the right to appeal such action to the Corporate Authorities within fourteen (14) days from the date on which the decision has been mailed to the applicant/licensee. This date shall be determined by the date on which the written decision was postmarked. In the event the village clerk or village president fails to issue a written decision, the appellant shall have seventeen days (17) from the date on which he/she was orally informed of the decision to deny, suspend, or revoke a license to appeal that decision.

(b) An appeal shall be perfected by filing a written statement with the village clerk or village president setting forth the grounds for the appeal. If a written decision was provided to the appellant from the village clerk or village president, a copy of that decision shall be attached to the appellant's written statement. After the receipt of said appeal, the village clerk or village president shall schedule the appeal for the next regularly scheduled meeting of the Corporate Authorities. Provided, however, if said appeal is received within ninety-six (96) hours of a regularly scheduled meeting, said appeal shall be heard at the following regularly scheduled meeting.

(c) A hearing shall be set no later than thirty (30) days from the date on which an appeal is received.

(d) Notice of the time and place of the appeal hearing shall be given to the appellant via U.S. Mail at the address provided on the person's application.

(e) An appellant shall be given notice of the hearing at least seventy-two (72) hours before the hearing.

(f) A decision to affirm or reverse the decision of the village president concerning the suspension or revocation of a license shall be limited to the record generated at the hearing in front of the village president.

(g) The decision of the corporate authorities of the Village shall be final and binding on all parties concerned.

(h) A decision to affirm or reverse a decision of the village clerk or village president shall be made by a majority vote of the Corporate Authorities present at the meeting.

Section 2

If any section, paragraph, clause, or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

Section 3


All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 4

This ordinance shall be immediately in full force and effect after the passage, approval, and publication. This ordinance is authorized to be published in pamphlet form.

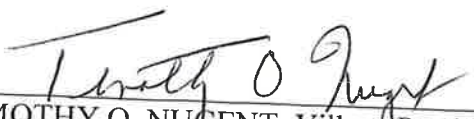
PASSED by the Board of Trustees of the Village of Manteno, Illinois and deposited in the office of the Village Clerk this 5th day of February, 2024.

DEPOSITED with the Village Clerk this
5th day of February, 2024.



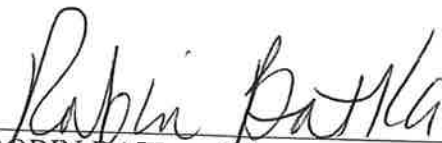
ROBIN BATKA, Village Clerk

APPROVED by me this 5th
day of February, 2024.



TIMOTHY O. NUGENT, Village President

I DO HEREBY CERTIFY that this Ordinance was, after its passage and approval, published in pamphlet form by authority of the Village of Manteno, in accordance with law, this 5th day of February, 2024.



ROBIN BATKA, Village Clerk