

ORDINANCE NO. 3437
READ BY COMMISSIONER ALPHONSE PETRACCO
INTRODUCED ON: FEBRUARY 4, 2020
PUBLISHED: FEBRUARY 13, 2020
PUBLIC HEARING: MARCH 3, 2020
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ORDINANCE NO. 3437

AN ORDINANCE TO AMEND AN ORDINANCE CODIFIED IN THE CODE OF THE TOWNSHIP OF NUTLEY, CHAPTER 510, ARTICLES I AND II, SECTION 510-1 THROUGH SECTIONS 510-20, ENTITLED PEDDLING, SOLICITING AND CANVASSING:

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NUTLEY, IN THE COUNTY OF ESSEX, NEW JERSEY, THAT ARTICLES I AND II ENTITLED PEDDLING, SOLICITATION AND CANVASSING IS HEREBY AMENDED AS FOLLOWS:

Chapter 510
PEDDLING, SOLICITING AND CANVASSING
GENERAL REFERENCES

Christmas tree sales — See Ch. 261	Noise — See Ch. 465.
Food and beverage vending machines — See Ch. 356.	Secondhand dealers — See Ch. 569.
Retail food-handling establishments — See Ch. 364.	Streets and sidewalks — See Ch. 626.
Garage sales — See Ch. 375.	Sale of used vehicles — See Ch. 679.

ARTICLE I
Peddlers and Solicitors
[Adopted 10-21-2008 by Ord. No. 3076]

§ 510-1. Purpose.

The purpose of this article is to:

- A. Regulate individuals entering upon private property, particularly residential property, to engage in the business of peddling or soliciting;
- B. Protect the public health, safety and welfare against unlawful activities or operations by individuals falsely representing themselves as peddlers or solicitors and from criminal activity, including fraud and burglary; and
- C. Balance the rights and interests of those engaged in commercial activities with the rights and interests of those residents who do not want to be disturbed by such activities.

§ 510-2. Definitions.

For the purposes of this article, the words set out in this section shall have the following meanings:

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COMMERCIAL — Involving the solicitation of funds for uses other than political, religious or charitable purposes, as set forth in § 510-15.

ENGAGE IN THE BUSINESS — Includes the conducting, managing or carrying on of any such business, or helping therewith, by any person in any capacity.

PEDDLER — Includes any person who, for commercial purposes, travels by foot, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street carrying, conveying or transporting food, goods, wares, merchandise, publications or other personal property or services, offering and exposing the same for sale or making sales and delivering such goods or services to purchasers.

SOLICITOR — Includes any person who, for commercial purposes, travels by foot, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street taking or attempting to take subscriptions, contracts for sale or orders for the sale of food, goods, wares, merchandise, publications or other personal property for future delivery or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether or not he/she collects advance payments on such sales.

§ 510-3. Permit required.

It is unlawful for any person to engage in the business of peddling or soliciting without first obtaining a written permit as provided in this article and paying the applicable fees pursuant to this article.

§ 510-4. Enforcement officer designated.

It shall be the duty of the Chief of Police of the Township of Nutley, or his or her designee, to enforce the provisions of this article.

§ 510-5. Place of registration.

The applicant for a permit under this article must register and obtain a permit from the Chief of Police and/or their designee. Permits may be applied for any day Monday-Friday between 9:00 a.m. - 4:00 p.m. (except holidays) and shall be issued and processed only on Thursdays between 10:00 a.m. - 12:00 p.m. and 2:00 p.m. - 4:00 p.m. Any applicant unable to respond to police headquarters during those times are required to make an appointment.

§ 510-6. Permit application.

- A. Applicants for a permit under this article must file with the Chief of Police a sworn application, in writing, on a form to be furnished by the Nutley Police Department, which shall set forth the following information:
- (1) Name, birth date, and driver's license or other state-issued photo identification card of the applicant;
 - (2) Permanent home address and telephone number, and local address and mobile telephone

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number, if available, of the applicant;

- (3) A brief description of the nature of the applicant's business and of the food, goods, wares, merchandise, publications or other personal property or services that are the subject of the application;
 - (4) If employed or otherwise engaged by another person or entity for the purposes of the peddling or soliciting in question, the name and address of the applicant's employer, or the engaging person or entity, together with documentation demonstrating the exact relationship between the applicant and the applicant's employer or other engaging person or entity;
 - (5) If a vehicle is to be used, a description of such vehicle, together with license number or other means of identification, and proof of automobile insurance;
 - (6) (Reserved)
 - (7) (Reserved)
 - (8) A statement as to whether or not the applicant has been convicted of any felony or misdemeanor involving injury to person(s) or property, theft, fraud or misrepresentation within 10 years preceding the application date;
 - (9) A statement whether or not the applicant has failed to pay any judgment arising from or connected with peddling or soliciting activities in any other municipality;
 - (10) A statement whether or not the applicant has suffered revocation of any permit required for commercial peddling or soliciting in any other municipality;
 - (11) If the applicant is under the age of 16 years and employed, transported or supervised by another, proof of registration with the State Department of Labor;
 - (12) If the application involves the sale or offering for sale of food, produce or any other item intended for human consumption, valid health or other permit(s), issued by the appropriate agency, as may be required by applicable local, state or federal law.
- B. All applications shall be submitted with payment of a nonrefundable fee of \$25.00. Any application submitted without the application fee shall be deemed incomplete. [**Amended 2-7-2012 by Ord. No. 3191**]

§ 510-7. Permit issuance.

- A. Upon receipt of such application, the Chief of Police, or his/her designee, shall cause such investigation of the application as he or she deems necessary. The Chief of Police, or his/her designee, shall approve or deny the permit within 30 calendar days of receipt of a complete application.
- B. Such permit shall contain the signature of the issuing officer and shall show the name and address of said permit holder, the kind of food, goods, wares, merchandise, publications or other personal property or services to be sold or offered for sale thereunder, the date of

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issuance and the date of expiration.

- C. The Chief of Police, or his/her designee, shall grant the permit, unless the application discloses or his/her investigation reveals one or more of the following facts, in which case he or she, or his/her designee, shall deny the permit:
- (1) The applicant has been convicted of a felony or misdemeanor involving injury to person(s) or property, theft, fraud or misrepresentation within 10 years preceding the application date;
 - (2) The application for permit under this article contains fraud, misrepresentation or false statement;
 - (3) The applicant has violated the provisions of this article;
 - (4) The applicant has failed to pay any judgment arising from or connected with peddling or soliciting activities in another municipality;
 - (5) The applicant has suffered revocation of a permit required for peddling or soliciting in any other municipality; or
 - (6) The activity as proposed by the applicant would violate this article, any other provision in this Code or any other state or federal law.
- D. The Chief of Police shall notify the applicant of a denial of a permit application by depositing written notice of such decision in the first-class U.S. mail, postage prepaid, addressed to the applicant, not later than three calendar days following the decision to deny the permit. The notice of denial must contain a statement of the facts upon which the denial is based and must contain a statement of the appeal procedure set forth in § 510-11.

§ 510-8. Permit use.

Each peddler and solicitor shall comply with the following:

- A. All permits issued under the provisions of this article shall expire on the date specified in the permit.
- B. Permit holders shall display their permits in a conspicuous place on their person and exhibit such permits upon request.
- C. No permit issued under the provisions of this article shall be used at any time by any person other than the one for whom it was issued.
- D. It is unlawful for any person to engage in the business of peddling or soliciting before 9:00 a.m. or after 9:00 p.m.
- E. No person shall engage in the business of peddling or soliciting at any premises at which there is posted a sign prohibiting solicitation, nor shall any person engage in the business of peddling or soliciting at any premises that appears on the municipal nonsolicitation list as established pursuant to § 510-9 of the Nutley Municipal Code.

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- F. Permit holders shall comply with all state, federal, and local laws.
- G. Mobile food operations shall be permitted only on certain occasions as may be stipulated by the Board of Commissioners and only if in total compliance with Subchapter 8 of Chapter XII, New Jersey State Sanitary Code (as per Ordinance No. 2358, 7-2-1991). This section shall not be intended to exclude frozen dessert trucks from the Township of Nutley. **[Added 2-7-2012 by Ord. No.3191]**

§ 510-9. Collection, preparation and maintenance of nonsolicitation list.

- A. The Office of the Director of the Department of Public Safety shall cause to be collected, prepared and maintained a list of addresses of those premises where the owner and/or occupant has notified the Director that soliciting and canvassing is not permitted on his/her premises. Residents seeking to be included on the nonsolicitation list may complete a form obtainable at Nutley Police Headquarters.
- B. The Office of the Chief of Police shall maintain the nonsolicitation list, update it on a quarterly basis and provide it to all persons issued permits in accordance with this article, all persons who express an intention to engage in canvassing activity, which may not be subject to the provisions of this article and all other persons who request a copy.

§ 510-10. Permit revocation.

- A. Permits issued under the provisions of this article may be revoked by the Chief of Police at any time for any of the following causes:
 - (1) Subsequent determination of facts or subsequent occurrences that would have required a denial of the permit at the time of application pursuant to § 510-7.
 - (2) The applicant engages in fraud, misrepresentation or false statement in the course of engaging in the business of peddling or soliciting.
 - (3) Any violation of this article.
 - (4) Conviction of any felony or misdemeanor involving injury to person(s) or property, theft, fraud or misrepresentation.
 - (5) The applicant engages in the business of peddling or soliciting in an unlawful manner.
 - (6) Any permit holder that does not have a current "No knock list" in their possession or engages in solicitation of a residence on the "No Knock List" shall be in violation of this ordinance.
- B. The permit holder must have in their possession a "No Knock List" dated no later than 60 days prior to the date of the solicitation.
- C. The Chief of Police shall notify the permit holder of a revocation of a permit by depositing written notice of such revocation in the first-class U.S. mail, postage prepaid, addressed to

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the applicant, not later than three calendar days following the decision to revoke the permit. The notice of revocation must contain a statement of the facts upon which the revocation is based and must contain a statement of the appeal procedure set forth in § 510-11.

§ 510-11. Appeal procedure.

Any person aggrieved by the action of the Chief of Police in the denial of a permit as provided in § 510-7 of this article, or revocation of a permit as provided for in § 510-10, shall have the right of appeal to the Board of Commissioners of the Township of Nutley. Such appeal shall be taken by filing with said Board of Commissioners, within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for appeal. The Board of Commissioners shall set a time and place for a hearing on such appeal and shall provide such notice to the applicant no less than five days prior to the date set for the hearing.

§ 510-12. Fees; duration of permit. [Amended 2-7-2012 by Ord. No. 3191]

- A. An application fee of \$ 25.00 shall be paid to the Township of Nutley, to defray the cost of investigation, processing, and issuing the permit as follows. All permits issued pursuant to this article shall be valid for a period of one year from date of issuance.
 - (1) Initial license \$25.00 per person
 - (2) For each person more than 2: \$ 5.00 (for peddlers at events)
 - (3) For each vehicle more then 1: \$ 5.00 (for peddlers at events)
- B. Replacement cost for lost or damaged permits will be \$5.00 per permit.
- C. Replacement cost for current No Knock Lists after the initial list is provided will be \$2.00 per person.
- D. Any vendor who wishes to participate in the annual municipal events listed below shall be subject to an event fee of \$100 per event payable to the Municipal Clerk, on application available at the Municipal Clerk's office: applicable events are Memorial Day parade, Fourth of July ceremony and any other event sponsored by and deemed applicable by the Board of Commissioners.

§ 510-13. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment for a term not to exceed 90 days, or both.

ARTICLE II
Canvassers
[Adopted 10-21-2008 by Ord. No. 3075]

§ 510-14. Purpose.

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The purpose of this article is:

- A. To regulate individuals engaged in religious, political or charitable canvassing.
- B. To balance the rights and interests of canvassers with the rights and interests of those residents who do not want to be disturbed by such activities.

§ 510-15. Definitions.

For the purposes of this article, the words set out in this section shall have the following meanings:

CANVASSER — A person who is not a solicitor or peddler, as defined in § 510-2 of the Nutley Municipal Code, and travels by foot, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street for the purpose of engaging in the conduct of speech, addressing issues of religion, politics, charity or other matters of public concern.

§ 510-16. Permit not required.

Canvassers shall not be required to apply for or obtain a permit in order to engage in canvassing within the Township of Nutley.

§ 510-17. Enforcement officer designated.

It shall be the duty of the Chief of Police, or his or her designee, to enforce the provisions of this article.

§ 510-18. Permitted times.

It is unlawful for any person to engage in canvassing before 9:00 a.m. or after 9:00 p.m.

§ 510-19. Prohibited locations.

No person shall engage in canvassing at any premises at which there is posted a sign prohibiting solicitation, nor shall any person engage in the business of canvassing, peddling or soliciting at any premises that appears on the municipal nonsolicitation list as established pursuant to § 510-9 of the Nutley Municipal Code.

§ 510-20. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment for a term not to exceed 90 days, or both.