

CHAPTER 2: LICENSES AND PERMITS

2.01 ALCOHOL BEVERAGES.

(1) **STATE STATUTES ADOPTED.** The provisions of Chapter 125 of the Wisconsin Statutes related to the use and sale of fermented malt beverages and intoxicating liquors, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes, are hereby adopted and made a part of this Code by reference.

Any person violating any provision of this section 2.01 shall be subject to the penalty provisions set forth in Section 1.01(9) of this Code.

(2) **LICENSE REQUIRED.** No person, firm or corporation shall, within the Village of Chenequa, distribute, sell, or offer for sale at wholesale or retail, any fermented malt beverage or intoxicating liquor, or cause the same to be done, without having procured a license as provided in this chapter.

(3) **LICENSE FEES.** There shall be the following classes and denominations of licenses which, when issued by the Village Clerk-Treasurer under the authority of the Village Board after payment of the fee hereinafter specified, shall permit the holder to sell fermented malt beverages or intoxicating liquor as provided in Chapter 125 of the Wisconsin Statutes:

- (a) Class "B" Fermented Malt Beverage Retailer's License \$ 20 per yr.
- (b) "Class B" Retail Liquor License \$100 per yr.

(4) **NUMBER OF LICENSES.** The number of licenses that may be granted is limited to:

- (a) Intoxicating Liquor "Class B" - 1
- (b) Fermented Malt Beverage Class "B" - 1

(5) **CONDITIONS, "CLASS B" LICENSE.** No retail "Class B" license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code, and the rules and regulations of the State Board of Health applicable to restaurants as contemplated in Section 125.68(5) of the Wisconsin Statutes, and also conform to all ordinances and regulations adopted by the Village.

(6) **RIGHT OF ENTRY FOR INSPECTION.** Every police officer, Building Inspector and fireman of the Village shall at all times have the right to enter and inspect the premises for which a retail "Class B" license has been applied or is in effect to determine whether or not the premises comply with the provisions of this chapter. Refusal or failure to admit any such officer or employee of the Village to enter and inspect the premises shall constitute a violation of this chapter.

(7) LICENSE RESTRICTIONS. No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments, utility bills or other claims of the Village are delinquent and unpaid. No initial or renewal alcohol license shall be granted to any person who is delinquent in payment of any taxes, assessments, utility bills or other claims owed to the Village and/or is delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.

(8) OPERATORS' LICENSES. Any person dispensing alcoholic beverages shall have an operator's license or provisional operator's license.

(a) Regular Operators' Licenses. The Village Clerk-Treasurer may issue an operator's license if the applicant meets the requirements of Chapter 125 of the Wisconsin Statutes and after payment of a nonproratable fee of \$20 for a two-year period to end on June 30 of each odd year. If an applicant is denied an operator's license, said applicant has the option to appeal the denial to the Village Board. All applications for an operator's license shall be filed with the Village Clerk-Treasurer at least fifteen (15) days prior to the granting of said license.

(b) Provisional Operators' Licenses. The Village Clerk-Treasurer may issue a provisional operator's license if the applicant meets the requirements described below and after payment of a nonproratable fee of \$15. A provisional license may be issued only to a person who has applied for an operator's license under sub. (a), and may not be issued to any person who has been denied a license under sub. (a) by the Village Board. In order to qualify for the issuance of a provisional license the applicant must meet the requirements of Chapter 125 of the Wisconsin Statutes, and must submit evidence that he or she has either completed or enrolled in the responsible beverage server training course required by Section 125.17 of the Wisconsin Statutes. The Village Clerk-Treasurer may revoke the license if he or she discovers that the holder of the license made a false statement on the application, and shall revoke the license if the applicant fails successfully to complete the responsible beverage server training course required by Section 125.17 of the Wisconsin Statutes.

All applications for a provisional operator's license shall be filed with the Village Clerk-Treasurer at least fifteen (15) days prior to the granting of said license. The provisional operators license shall expire sixty (60) days after its issuance or when a regular operator's license is issued, whichever is sooner.

2.02 SOLICITORS AND TRANSIENT MERCHANTS. (revised 6/12/09)

(1) Registration Required. It shall be unlawful for any person or organization to engage in or sponsor Solicitation or to employ others to engage in Solicitation or to act as a Transient Merchant within the Village without being registered for that purpose as provided herein, unless specifically exempt from the registration requirements.

(2) Definitions.

(a) “Solicitor” means any individual who, for himself, or for any other person, organization, society, association or corporation, personally attempts to distribute or distributes literature, which attempts to promote any cause or conviction or who personally solicits money, services, property, or financial assistance of any kind, in either event, from persons other than members of such organization, society, association or corporation.

(b) “Solicitation” means any of the activities described in subparagraph (2)(a) immediately above when engaged in within the Village.

(c) “Clerk” shall mean the Village Clerk of the Village of Chenequa.

(d) “Registrant” shall mean each individual registered by the Clerk as a Solicitor.

(e) “Door-to-Door Activities” as used herein means the practice of an entity exempt from the registration requirements of this ordinance, and individuals acting on its behalf, of going from door to door within the Village for the purpose of personally attempting to distribute, or distributing, literature which attempts to promote any cause or conviction, or for the purposes of soliciting money, services, property, or financial assistance of any kind, in either event from residents of the Village who are not members of the exempt entity.

(f) “Transient Merchant” shall mean and include any individual, whether principal, agent or employee, who engages, does, or transacts any transient business in the Village by going in and upon private residences in the Village for the purpose of selling or soliciting orders for the sale of goods, wares, merchandise or services.

(3) Registration Requirements.

(a) Applicants for registration must complete and return to the Clerk, at least seven (7) days before the first sales efforts are to be made, a registration form furnished by the Clerk, which shall require the following information:

1. Name, permanent address, telephone number and temporary address, if any.
2. Date of birth, height, weight, and color of hair and eyes.
3. Name, address and telephone number of the person, firm, association, or corporation that the applicant represents or is employed by, or whose merchandise is being sold.
4. Nature of business to be conducted and a brief description of the goods or services offered.
5. Proposed method of delivery of goods, if applicable.

6. Make, model and license number of any vehicle to be used by applicant in the conduct of his business.

7. Last cities, villages, or towns (not to exceed three), where applicant conducted similar business.

8. Statement as to whether applicant has been convicted of any crime or ordinance violation, the nature of the offense and place of conviction.

(b) At the time the registration is filed with the Clerk, a fee of Twenty-Five Dollars (\$25) shall be paid to the Clerk to cover the cost of processing said registration. Upon payment of said fee, submission of a properly completed and signed registration application, and the receipt of a clear report from the Chief of Police or his designee, the Clerk shall register the applicant as a Transient Merchant, date the entry, and issue a Registration Identification to the applicant. The Registration Identification shall be valid for a period of sixty (60) days from the date of issue, subject to subsequent review and revocation as set forth herein. Complete registration and fee shall be required of each individual, whether principal, agent, or employee who transacts any Transient Merchant's business in the Village.

(c) The Clerk shall furnish a copy of each such Solicitor's Registration Identification to the Chief of Police for the use of the Police Department in identifying properly registered Solicitors.

(d) Exemptions. The following entities and individuals acting on their behalf shall be exempt from the registration requirements of this ordinance:

1. Corporations organized under the Religious Corporations Law of the State, and other religious organizations, and charities operated, supervised or controlled by or in connection with a religious organization.

2. Any person delivering to regular customers on established routes or by contract.

3. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requests, a home visit by said person.

4. Any person who had had, or one who represents a company which has had a prior business transaction within the past twelve (12) months, such as a prior sale or credit arrangement with all of the prospective customers to be contacted.

(e) Exempt Identification.

1. Prior to any person commencing Door-to-Door Activities on behalf of any organization exempt from registration by virtue of Subsection 3(d) of this Ordinance, an official of such exempt organization shall notify the

Police Department in writing of the names, addresses, telephone numbers and ages of the individuals who will be performing the actual Door-to-Door Activities on behalf of such exempt organization within the Village. The Police Department shall also be advised of the approximate date and time at which the Door-to-Door Activities will take place.

2. Each individual that is performing the actual Door-to-Door Activities on behalf of an organization that is exempt from registration by virtue of Subsection 3(d) of this Ordinance shall have in his possession an identification document issued by the organization for which the Door-to-Door Activities are being performed. Such individual shall produce such identification document at each residence where a call is made and shall exhibit such document to any Police Officer of the Village upon request.

3. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register. This exemption will not apply if the individual's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(4) Investigation.

(a) Investigation. Upon receipt of each application, the Clerk shall refer it immediately to the Chief of Police or the Chief's designee, who shall make an investigation of the statements made in such registration, and report the results of his investigation to the Clerk within seven (7) days.

(b) Denial or Revocation of Registration. The Clerk shall refuse to register the applicant or shall subsequently revoke registration if it is determined that: (i) the applicant contains any material omission or materially inaccurate statement; (ii) complaints of a material nature having been received against the applicant by authorities in the last cities, villages or towns (not exceeding three), in which the applicant conducted similar business; (iii) the applicant was convicted of a crime, statutory violation or ordinance violation, the nature of which is directly related to the applicant's fitness to engage in direct selling or safety property or person; (iv) the applicant failed to comply with any applicable provisions of this Ordinance; or (v) the Village receives information (whether prior or subsequent to the approval of the application), which would constitute grounds for revocation pursuant to this Subsection.

(c) Appeal. Any person denied registration or whose registration is revoked may appeal the denial to the Village Board.

(5) Regulations.

(a) Identification Required. During actual Solicitation, each registered Solicitor shall carry the Registration Identification signed by the Clerk, evidencing the fact that the Solicitor is registered to solicit within the Village, and produce for inspection the Registration Identification at each residence whereat Solicitation is made.

(b) Hours. Door-to-Door activities within the Village for the purpose of performing Solicitation as defined in Subsection 2(e) hereof, may only take place between the hours of 9:00 AM and 7:00 PM, Monday through Saturday. Solicitation and Door-to-Door Activities may take place at any hour and on any day by specific appointment with the owner or occupant of the premises; the burden of proving the existence of a specific appointment being upon the individual performing the activity.

(c) Disclosure Requirements: After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell, and produce for inspection the permit by the Village.

(d) Prohibited Acts. No person performing Solicitation or Door-to-Door Activities within the Village shall:

1. Falsely represent the use to which funds obtained or sought will be applied or falsely represent the nature of the individual's connection with the organization for which the activity is being performed, or make any false statements whatsoever.
2. Use or allow the use of any identification document by any persons other than the person named in such identification document.
3. Enter or remain upon any land or building of another after having been notified by the owner or occupant not to enter or remain on the premises. A person has received notice from the owner or occupant within the meaning of this Section if he or she has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign of at least eleven (11) inches square must be placed in a conspicuous place. The sign shall bear the words "No Trespassing" or "No Solicitation" or words of similar meaning prohibiting unauthorized entry.

(6) Revocation of Registration.

(a) Registration may be revoked by the Chief of Police and/or Village Administrator after notice and hearing, if the registrant: (i) made any material omission or materially inaccurate statement in the application for registration; (ii) made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; (iii) violated any provision of this section; or (iv) was convicted of any crime, ordinance or statutory violation directly related to the registrant's fitness to engage in direct selling.

(b) Appeal: Any person denied registration or whose registration is revoked may appeal the denial to the Village Board.

(c) Written notice of the hearing shall be served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the facts upon which the hearing will be based.

(7) Severability. If any of the provisions of this Ordinance are invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

(8) Penalty. Any person found guilty of a violation of this Ordinance shall be subject to a forfeiture of not less than Twenty-Five Dollars (\$25) nor more than Five Hundred Dollars (\$500), together with the costs of the action; and in default of payment thereof, shall be subject to and other court ordered penalty allowed under State Code or by virtue of violation of any other Village ordinance.

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March 2, 2011

Via Messenger

Honorable Timothy G. Dugan
Milwaukee County Circuit Court
901 North 9th Street
Milwaukee, WI 53233

Re: *Lauren S. Lopez, M.D., S.C. v. John Daniels, M.D., et al.*
Case No: 09-CV-12521

Dear Judge Dugan:

Enclosed for filing, please find an original and one copy of a Stipulation and Order for Substitution, a Notice of Motion and Motion for Relief from Scheduling Order, and the Affidavit of Joshua L. Gimbel. Please return a file-stamped copy to our messenger.

Since there are other motions pending in this case that will be heard at 11:15 a.m. on March 14, 2011, I have scheduled this motion for the same time. If this does not meet with the Court's preference, please have your clerk contact me to make alternative arrangements. Thank you for your consideration.

By copy of this letter, all counsel of record will be served.

Very truly yours,

Michael Best & Friedrich LLP

Joshua L. Gimbel

JLG:kmb
Enclosures

Cc: Donald A. Daugherty, Jr., Esq.
Patrick J. Schott, Esq.
Michael B. Brennan, Esq.

MICHAEL BEST

& FRIEDRICH LLP

Honorable Timothy G. Dugan
3/2/2011
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Bcc: Mr. Brian Nahey

LAUREN S. LOPEZ, M.D., S.C.,

Plaintiff,

v.

JOHN DANIELS, M.D.,
JOHN DANIELS, M.D., S.C.

Case No: 09-CV-012521
Honorable Timothy G. Dugan

Defendants and Third-Party Plaintiffs,

And

CJN INVESTMENT FAMILY LIMITED PARTNERSHIP,

Defendant,

v.

LAUREN S. LOPEZ, M.D.,

Third-Party Defendant.

CJN INVESTMENT FAMILY LIMITED PARTNERSHIP'S
NOTICE OF MOTION AND MOTION FOR RELIEF FROM SCHEDULING ORDER

TO: Patrick J. Schott, Esq.
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PLEASE TAKE NOTICE that on March 14, 2011 at 11:15 a.m., or soon thereafter as counsel may reasonably be heard at the Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, Wisconsin, 53233, Defendant CJN Investment Family Limited Partnership ("CJN"), by its attorneys, Gass, Weber, Mullins LLC and substitute counsel Michael Best & Friedrich LLP, will move the County Circuit Court, the Honorable Timothy G. Dugan presiding, for (1) an order substituting in Michael Best & Friedrich LLP for Gass, Weber, Mullins LLC, and (2) an order granting CJN relief from the Scheduling Order. The basis for this Motion is the facts contained in the Affidavit of Joshua L. Gimbel, filed herewith.

Dated this _____ day of _____, 2011.

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