

April 10, 1975

ORDINANCE TO REGULATE AND LICENSE PEDDLERS

An Ordinance to Regulate and License the Hawking, Peddling, Vending and Selling of Goods, Wares and Merchandise and Soliciting Orders Therefor in the Town of Allegany, N. Y.

Section 1. DEFINITIONS: The terms "hawker" and "peddler" as used in this ordinance shall mean and include, except as herein after expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter, any goods, wares, or merchandise, except as hereinafter exempted.

The term "solicitor" as used in this ordinance shall mean and include any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take, orders for goods, wares or merchandise, except as hereinafter exempted, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

The term "established place of business" as used in this ordinance shall mean and include a building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

The word "person" as used in this ordinance shall mean and include one or more persons of either sex, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

Section 2. EXEMPTIONS: Nothing in this ordinance shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established place of business within the Town or their employees, or to the peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities, or to dealers in milk, baked goods, heating oil and daily newspapers, to any honorably discharged member of the armed forces of the United States who has procured a license as provided by the General Business Law of the State of New York, or to persons soliciting or collecting

for any bonafide charitable organization, educational or person soliciting or collecting for any valid and authorized purposes of an educational institution located within the County of Cattaraugus. This ordinance shall also not apply so as unlawfully to interfere with interstate commerce.

Section 3. LICENSE REQUIRED: It shall be unlawful for any person, within the territorial limits of the Town of Allegany to act as a hawker, peddler or solicitor as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

Section 4. APPLICATION FOR LICENSE. Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information, to wit: That he is a citizen of the United States; that he has never been convicted of a felony or misdemeanor (or if so, giving the details): a detailed statement of the particular business, trade or occupation for which the license is requested; the number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested; the kinds of goods, wares and merchandise he desires to sell or the kind of service he desires to render; the name, address and age of the applicant; the name and address of the person, firm or corporation he represents; the names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation, and the name and address of a person upon whom a legal notice may be served; and such other information as may be required by the Town Clerk.

Section 5. LICENSE: Upon the filing of the application, as provided in the preceding section, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided in Section 3, signed by the Town Clerk. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this ordinance. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may provide for an earlier expiration date. No license shall be granted to a person under eighteen years of age. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or

revocation, unless he can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

Section 6. LICENSE FEES: The license fee to hawkers, peddlers or solicitors, shall be as follows: \$5.00 per day;

~~\$ 25.00 per year~~ ~~\$ 12.50~~ one half year

Section 7. EMPLOYEES OF LICENSEE: Any license using a motor vehicle may employ not more than two persons to assist in selling and delivering the wares, but such persons shall so act only while accompanying a licensed peddler, hawker or solicitor.

Section 8. NAME AND ADDRESS ON VEHICLE: Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of every such vehicle and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

Section 9. REFUSAL OR REVOCATION: Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in Section 137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason therefor in writing shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the Town Clerk.

Section 10. RESTRICTIONS: A licensed hawker, peddler or solicitor shall,

(a) not falsely or fraudulently misrepresent the quantity, or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

(b) keep the vehicles and receptacles used by him in a clean and sanitary condition and the food stuffs and edibles offered for sale well covered and protected from dirt, dust and insects.

(c) not stand or permit the vehicle used by him to stand in one place in any public place or street for more than ten minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.

(d) not sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 A.M. and 4:00 P.M. on school days.

(e) not permit any vehicle used by him to stop or

remain on any cross walk.

(f) not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

(g) not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.

Section 11. ORDERS: All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery, shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

Section 12. RECORDS: It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this ordinance, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

Section 13. PENALTY: Any person, who himself or by his agent, or employee, shall act as a hawker, peddler or solicitor as herein defined, without a license, or shall violate any of the provisions of this ordinance, or who, having had his license revoked, shall continue to act as a hawker, peddler or solicitor, shall, upon conviction, be punished by a fine of not less than \$10.00 or more than \$ 50.00 and each day on which such violation continues shall constitute a separate offense.

Section 14. SAVING CLAUSE: If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 15. EFFECTIVE DATE: This ordinance shall take effect ten days after publication, or immediately upon personal service, as provided by Section 133 of the Town Law.

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF ALLEGANY

M. Kathryn Gandusky
M. Kathryn Gandusky, Town Clerk

APRIL 10, 1975