

(Use this form to file local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County \_\_\_\_\_  
City of Vienna \_\_\_\_\_  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Local Law No. 3 of the year 1994.

A local law \_\_\_\_\_  
"PEDDLERS AND HAWKERS LICENSING"  
(Insert Title)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Be it enacted by the Vienna Town Board of the \_\_\_\_\_  
(Name of Legislative Body)

County \_\_\_\_\_  
City of Vienna \_\_\_\_\_  
**Town** \_\_\_\_\_  
Village \_\_\_\_\_

**LOCAL LAW NO. 3 OF THE YEAR 1994**

A Local Law entitled "Peddlers and Hawkers Licensing" repealing Ordinance #4 of 1954, regulating the licensing of peddlers in the Town of Vienna.

Be it enacted by the Town Board of the Town of Vienna as follows:

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(If additional space is needed, attach pages the same size as this sheet, and number each).

**§1 - Findings and Purpose.**

- A. The Town Board of the Town of Vienna finds that there has been an increase in the number of seasonal roadside peddlers selling their produce and wares from stands and vehicles along the roads and highways in the Town.
- B. The Town Board finds that this increase in peddlers has created a hazard which is detrimental to the health and safety of the citizens of the Town and to the safe flow of vehicular traffic on the roads and highways in the Town of Vienna.
- C. The Town Board finds that it necessary and proper to regulate the practice of peddling through the licensing of peddlers, pursuant to Section 136 of the Town Law.
- D. It is the purpose of this local law to regulate the practice of peddling through the licensing of both mobile and stationary peddling.
- E. The Town Board finds that the Town of Vienna Zoning Law, as amended shall remain in effect with the enactment of this law.

## **§2 – Definitions.**

- A. The following definitions shall govern the interpretation of this local law, unless otherwise expressly defined herein. Words in the singular shall include the plural, and vice versa. The word “shall” is always mandatory.
- B. As used herein, the following words and terms shall have the meanings indicated:
  - (1) CHARITABLE ORGANIZATION: Any benevolent, philanthropic, patriotic or eleemosynary organization or municipal corporation, or agency thereof.
  - (2) LICENSE: The permit issued to a peddler.
  - (3) PEDDLE: To remain at a stationary location or to travel from place to place or street to street, by vehicle or on foot, to sell, hawk, canvass, vend, offer for sale, or solicit orders for the sale of goods, wares, merchandise, food, provisions, or services of any kind or description, to be delivered or performed immediately or at a future date by the peddler.
  - (4) PEDDLER: Any person engaged in peddling.
  - (5) PERSON: Any natural person, partnership, association, corporation or other legal entity.
  - (6) VEHICLE: Any mobile vehicle, either motorized or non-motorized, including trailers, pushcarts or wagons.
  - (7) STRUCTURE: Any temporary building, stand, soft-hard covered table or bench area that displays products for sale.

## **§3 – License Required.**

It shall be unlawful for any person, except as exempted herein, to peddle in the Town of Vienna, without first having obtained a license from the Town Clerk as herein provided.

#### **§4 – Application.**

Applicants for peddlers' licenses shall file with the Town Clerk a verified application upon a form supplied by the Town Clerk, which shall contain the following information:

- A. Name, current address and phone number of applicant.
- B. Current business or employer, with address and phone number.
- C. Name, address and phone number of the person, firm or corporation the applicant represents or by whom applicant is employed.
- D. The particular business, trade, or occupation for which the license is requested, with a description of the goods, wares, commodities or services to be offered for sale.
- E. The manner or means of conveyance in which the said business, trade or occupation shall be conducted.
- F. The length of time for which the license is requested.
- G. Two business or personal references.
- H. If the business or trade requires licensing from any other governmental agency, same shall be produced by the applicant.

#### **§5 – Issuance of License.**

- A. Upon receipt of the application and the license fee, and if reasonably satisfied with the application, the Town Clerk shall issue a peddler's license to the applicant, specifying the particular business authorized.
- B. The license shall be non-transferable, and shall be in the continuous possession of the licensee and shall be visibly displayed while engaged in the business so licensed. The license shall be produced by the licensee on demand by any Town official, police officer or Sheriff.

#### **§6 – Exemptions.**

- A. The following shall be exempt from the requirements of this local law:
  - (1) Sales conducted pursuant to statute or by order of any court.
  - (2) Any honorably discharged veteran of the armed services of the United States, who is crippled or otherwise seriously injured as a result of injuries received while in the armed services of the United States and who has a license issued pursuant to General Business Law, Article 4.

- (3) A child regularly attending any public or private school in the County of Oneida; representatives of any church, or religious organization fraternal organization, veterans' organization, or civic group; PROVIDED, HOWEVER, that such child or group member shall carry on an otherwise regulated activity only in connection with an authorized activity of the school or group which such child attends or of which the person is a member.
- (4) Any person peddling for a charitable organization.
- (5) Sales of fruits, vegetables and / or nursery items grown on the property where it is being sold.
- (6) Sales of newspapers delivered to residences.
- (7) Lawn sales, conducted by residents at their residences.
- (8) Regular deliveries, i.e. ice creams, cosmetics, snack items, and the like.

#### **§7 – License Fee.**

- A. The fee for each license application shall be \$100.00 annually, or \$10.00 per day, and shall be non-refundable upon issuance of the license.
- B. If, in the Town Clerk's discretion, the license should not be issued, the fee for processing shall be \$5.00
- C. Annual licenses shall expire on December 31<sup>st</sup> of the year of issuance, and daily licenses shall expire at the close of business hours on the day(s) for which they are issued.

#### **§8 – Appeals.**

Any person aggrieved by the action of the Town Clerk in the denial of a license shall have the right to appeal such action to the Town Board. Such appeal shall be taken by filing with the Board a written statement setting forth the grounds for the appeal, and shall be filed within fourteen (14) days of receipt of notice of denial. The Town Board shall set a time and place for a hearing on such appeal, to be not later than the second regular Board meeting following the filing of such appeal. Notice of such hearing shall be given in the same manner as provided in §9 & §10 of this law for notice of hearing on suspension or revocation. The decision of the Town Board on such appeal shall be final and conclusive.

#### **§9 – Suspensions.**

Whenever the Town Clerk shall have cause to believe that any person to whom a license has been issued under this law has violated any of the provisions hereof, the Town Clerk shall immediately suspend such license temporarily and give the licensee written notice by certified mail, return receipt requested, of a hearing to be held within seven (7) days of such temporary suspension, to determine the length of such suspension, or whether or not such suspension should continue.

#### **§10 – Revocations.**

- A. Licenses issued under this law may be revoked by the Town Board after notice and hearing for any of the following causes:
- (1) Fraud, misrepresentation or a material incorrect statement in the license application.
  - (2) Fraud, misrepresentation or a material incorrect statement in the course of carrying on the business of peddling.
  - (3) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
  - (4) Any violation of this law.
- B. Notice of the revocation hearing shall be sent in writing by the Town Clerk and shall set forth the grounds of the complaint, and the time and place of hearing. Said hearing shall be set within three (3) days of the service of the notice to the licensee.
- C. Notice may be sent by certified mail, return receipt requested, to the licensee's address as given on the application, or may be personally served on the licensee. If service is by mail, the three (3) day time frame for the hearing to be set, shall commence as of the date of mailing. If service is made personally, said three (3) day time period shall commence as of the date of such service.

#### **§11 – Penalties.**

Any person who is convicted of a violation of this law, shall be deemed to have committed an offense, and shall be subject to a fine of not more than Two Hundred Fifty (\$250.00) Dollars. Each day of continuing violation shall be deemed a separate offense.

#### **§12 – Restrictions.**

A peddler shall:

- (1) Not engage in peddling at any time between the hours of 8:00 p.m. and 8:00 a.m.
- (2) Not willfully misstate the quantity or quality of any article offered for sale.
- (3) Not call attention to his goods by blowing a horn, ringing a bell, or by any other loud or unusual noise, except that peddlers of ice cream for immediate consumption are exempted from the foregoing prohibition against the use of a bell.
- (4) Not park any vehicle or have any structure offering any products for sale within three (3) feet of any state, county or town highway right-of-way. It shall be the responsibility of the licensee to contact the appropriate agency to determine the limit of such highway rights-of-way.
- (5) Keep any edible articles excepting fruits and vegetables offered for sale protected from dirt, dust and insects.
- (6) Not peddle within 500 feet of any church or school.
- (7) Not peddle within 500 feet of any public market or store engaged in the business of selling the same or similar goods as the peddler.

- (8) Not permit any mobile vehicle used by him to remain stationary at any time or at any location, except while sales are actually being conducted and customers are waiting for delivery of goods.
- (9) Not peddle at any residence or location which has “No Peddling or Soliciting” signs, or signs of similar import, posted on such residence.
- (10) Not to display more than two (2) free-standing signs, each having a surface area of not more than eight square feet, and being no higher than six feet from the ground. Said signs shall not project or extend onto any public or private road right of way, and shall not be attached to utility poles, trees, bridge abutments or other similar structures. Any signs mounted or painted onto vehicles used by the licensee in the conduct of his/her business shall be considered to be included in the two-sign limitation.

**§13 – Severability.**

The invalidity of any clause, sentence, paragraph or section of this Local Law shall not invalidate any other clause, sentence, paragraph or section hereof.

**§14 – Repealer.**

All prior local ordinances, resolutions or laws in relation to peddling, are hereby repealed.

**§15 – Effective Date.**

This law shall take effect on the date of filing with the Secretary of State.