

VILLAGE OF CHESTNUT RIDGE

LOCAL LAW NO. 5 OF 1987

A local law Regulating, Licensing and Restricting Peddlers, Vendors and Solicitors in the Village of Chestnut Ridge

Be it enacted by the Board of Trustees of the Village of Chestnut Ridge as follows:

Section 1. Legislative intent.

The attention of the Board of Trustees of the Village of Chestnut Ridge has been directed to abuses and unscrupulous and disruptive acts by street vendors and persons engaging in door-to-door soliciting and selling of goods, merchandise and wares; that residents of the Village may have been subjected to exaggerated, unethical and spurious claims and representations with respect to such goods, wares and merchandise; and that such conduct by street vendors and door-to-door solicitors has violated the peace, good order and safety and general welfare of residents of the Village; and it is the intent of the Board of Trustees of the Village of Chestnut Ridge, by the enactment of this Local Law to minimize and prevent the foregoing abuses and violations of the rights of the residents of the Village and to protect them and the general welfare as hereafter more fully provided.

Section 2. License required.

It shall be unlawful for any person, firm, organization or other entity subject to the provisions of this local law to act or have any person under its control represent him or it as a peddler, hawker, solicitor, canvasser or sales agent, as defined herein, without first having obtained and having in force and effect a license duly issued as herein provided.

Section 3. Definitions.

The following terms, phrases and words and their derivations shall have the meaning given herein, and, as required, the present tense shall include the future, and words in the plural shall include the singular, and vice versa. The word "shall" is always mandatory and not directory.

PEDDLER and HAWKER – Any person, principal or agent who engages in door-to-door merchandising of any goods, wares or commodities, including books, periodicals or services, to homes or places of business, or in any public place or street or from any premises not an established place of business.

SOLICITOR and CANVASSER – Any person, principal or agent engaging in door-to-door solicitation at homes, businesses or in any public place or street or from any premises not an established place of business, of orders for sale of goods, wares, commodities or other merchandise, including books or periodicals, or for the performance of future services, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery.

MERCHANDISING – Selling, bartering or trading, or offering to sell, purchase barter or trade any goods, wares, commodities, services, property, (real or personal) or other merchandise, including periodicals and books and supplying of services.

ESTABLISHED PLACE OF BUSINESS – A building or structure which is operated as a regularly established place of business and from which a person transacts business and deals in goods, wares or merchandise, or performs services or solicits orders for the same on a continuing and on-going basis.

PERSON – Any individual, firm, partnership, corporation, association or other entity or organization, and any principal or agent thereof.

Section 4. Exceptions.

This local law shall not apply to:

- A. Any sale conducted pursuant to statute or by order of any court.
- B. A wholesaler of articles to dealers or merchants engaged in selling such articles.
- C. Merchants having an established place of business within the Village and the employees of such merchants, and any person vending at the express invitation of the customer or serving the latter on a regular basis.
- D. Peddling of meats and agricultural produce by farmers and persons who produce such commodities, provided they have otherwise complied with any licensing and health and safety requirements of any other competent governmental body or agency.
- E. This local law shall not apply to sale of daily newspapers nor be interpreted as intending to, nor shall it be construed to, unlawfully interfere with the conduct of interstate commerce, or the impairment of the rights of free speech, press or publication; and shall be construed as implementing and not as limiting the purposes and provisions of the New York State Home Solicitation Sales Act.

Section 5. Application for license.

Every applicant for a license hereunder shall submit a verified written application to the Village Clerk supplying the following information:

- A. Name, permanent home address and local address, if any, of applicant.
- B. A physical description of the applicant setting forth:
 - (1) Date of birth.
 - (2) Height
 - (3) Weight
 - (4) Color of hair and eyes.

- C. A detailed statement of the particular business, trade or occupation for which the license is requested, and a description of the goods, wares, merchandise or commodities offered for sale.
- D. The name and address of the person, firm or corporation, if any, he represents; the names and addresses of all partners, if a partnership; the names and addresses of the principal officers, if a corporation; and the name and address of a person upon whom a legal process and notice may be served.
- E. Prior arrests and the disposition thereof of the applicant and the firm or corporation he represents, including the date and nature of such arrest, and location of the court where such record or disposition is on file.
- F. The number and kind of motor vehicles to be used in carrying on the business; and the registration, license and insurance data for each such vehicle and operators thereof.
- G. The length of time for which the license and privilege to do business is desired.
- H. Two (2) photographs two by two (2x2) inches in size, taken within sixty (60) days immediately prior to the date of filing of the application, showing clearly the face and shoulders of the applicant.
- I. References as to the applicant's good character, such as at least two (2) residents of Rockland County, or municipalities in Rockland or adjoining counties in which the applicant has conducted his business or operations.
- J. If peddling or soliciting is to be conducted as a team, group or other organized party under single leadership or direction, control or sponsorship, the above required personal information shall also be supplied as to such leader or person in charge and with respect to each such other person, employee or agent so involved.
- K. If such applicant represents or is the agent for a principal, there shall be appended to the application a letter or other evidence of authorization or agency from the principal describing the nature and scope of such applicant's authority and any restrictions, limitations and conditions imposed on such applicant by the principal agency or organization he represents. In addition, copies of each order form, contract, or other form or document to be utilized by the applicant in such sale or solicitation shall be attached to the application.
- L. Where the applicant is offering for sale goods, merchandise or commodities required to be sold by weight, measure or count, as provided under Article XVI of the Agriculture and Markets Law of the State of New York, such application shall be accompanied by a certificate from the Sealer of Weights and Measures having jurisdiction thereof, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

- M. Any additional information required by the Village in the interest of the health, safety and welfare of the residents of the Village, including, but not limited to denials of licenses or their revocation by other municipalities prior to the present application.

Section 6. Fees.

- A. A fee in the amount of Forty-five (\$45.00) Dollars shall be paid by each person to be licensed hereunder, and said fee, payable to the Village Clerk, shall be applied to the cost of processing the license applications, and otherwise enforcing and effectuating the objectives of this local law, without, however, imposing an undue burden on the interstate business activities of any applicant, and provided further that any applicant may apply to the Village Clerk for an adjustment of such fee where the same appears discriminatory, unreasonable or unduly burdensome in the circumstances, as shown by affidavit and appropriate supporting evidence. The Village Clerk shall, within a reasonable time after such request, determine whether the fee fixed hereunder is discriminatory, unreasonable or unduly burdens the applicant's interstate business activities, and shall fix as the license fee an amount that is fair and reasonable in the circumstances, and file her report thereon in the Clerk's records. Any applicant aggrieved by a determination of the Village Clerk shall be advised of his right to appeal such decision to the Mayor, or his designated agent, whose determination shall be final.
- B. Notwithstanding anything in this local law to the contrary, the following persons, firms, corporations or organizations shall be exempt from payment of the fees set forth hereinabove:
 - (1) An honorably discharged member of the armed forces of the United States, who is crippled as a result of injuries received while in the military services and who has procured a license from the Rockland County Clerk, as provided by General Business Law of the State of New York.
 - (2) Persons peddling, soliciting or vending or collecting for the benefit of any bona fide fraternal, educational, religious or charitable organization; provided, however, that such organization shall have otherwise been certified or otherwise been duly qualified as required by law or by any competent governmental body or agency.

Section 7. Investigation; issuance; denial.

- A. The Village Clerk, with such assistance from the Police Department as may be reasonably necessary, shall investigate all applications and shall thereafter, within a reasonable time, issue or deny a license to the applicant. All licenses shall expire on the first day of January following their issuance, but such license may provide for an earlier expiration date.

- B. If, after investigation of any application, the Village Clerk shall deny same, she shall endorse on such application such disapproval and the reason for same, and the Village Clerk shall forthwith notify the applicant in writing of such denial and of his right of appeal as herein set forth.
- C. No license shall be granted to any person under eighteen (18) years of age except that such person may be granted a license if he is peddling, soliciting or vending for an organization defined in Section 6 (B) (2) of this local law.

Section 8. Restrictions.

A licensed peddler or solicitor shall not:

- A. Resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting his business, or offer for sale any provision, food or merchandise that is unwholesome, unfit, deleterious or harmful to the user or consumer thereof.
- B. Peddle at or solicit on private property which has displayed a sign bearing the words "No Peddling or Soliciting" or words of like intent. Nor shall any licensee remain on the premises after the owner or occupant thereof shall have requested this departure therefrom.
- C. Keep the vehicles and receptacles used by him in an unclean and unsanitary condition, nor the foodstuffs and edibles offered for sale uncovered and unprotected from dirt, dust, insects, contamination or spoilage, or as otherwise required by any competent municipal health authority.
- D. Stand or permit the vehicle used by him to stand in one place in any public place or street for more than ten (10) minutes, or in front of any premises for any time if the owner or occupant of the premises objects. However, in no case shall the holder of any license issued hereunder remain in any one fixed location and vend his good, wares and merchandise continuously for a period in excess of thirty (30) minutes, nor shall said licensee resume operations during the same business day from a new location within one-fourth (1/4) mile of said former site of operation.
- E. Sell any confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of 8 a.m. and 4 p.m. on school days.
- F. Permit any vehicle used by him to stop or remain on any crosswalk.
- G. Create, erect 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.
- H. 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.

- I. Assign or transfer his license to any other person, and any transfer to, or use of such license by any other person shall be a violation and shall automatically thereupon terminate such license.
- J. Fail to carry his license upon his person nor to exhibit the same upon demand to any police, Village officer or agent or resident being solicited or involved in a transaction with him.
- K. Obstruct any street, driveway or other public or private right-of-way.

Section 9. 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 and which shall contain the notice of right of cancellation as set forth in Section 10 of this local law.

Section 10. Cancellation.

As more fully provided and set forth in the New York State Home Solicitation Sales Act, which is incorporated herein by reference as to the rights, remedies and procedures in any sale, order for purchase or agreement to buy which was induced by, or the result of harassment, intimidation, abusive conduct, misrepresentation of material facts or high pressure tactics by the solicitor, any person or consumer shall have the right of cancellation as therein set forth upon giving written notice to the solicitor, by mail properly addressed and postage prepaid; and such notice, the language or tenor of which makes clear the purchaser's intention to return such goods, wares or merchandise, will be sufficient. In such event, the seller's failure to tender to the buyer any payment made by the buyer, less a sum not in excess of five (5%) percent of the cash price, but not exceeding the amount of the down payment, with an acknowledgment of his cancellation of the order, shall be deemed a violation of this local law, and shall subject the licensee to any penalties hereunder in addition to any penalties provided under the New York State Home Solicitation Sales Act.

Section 11. Revocation and suspension.

- A. Licenses issued under the provisions of this local law may be revoked by the Village Clerk after written notice and a hearing, for any violation of this local law.
- B. Notice of hearing for revocation of a license shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the licensee at least ten (10) days prior to the date set for the hearing, except as set forth below.
- C. In addition to the foregoing, the Village Clerk may forthwith temporarily suspend any license issued pursuant to this local law upon receiving information giving reasonable cause to believe that any licensee hereunder has either violated this local law by an act involving moral turpitude, physical abuse, threats, intimidation or harassment, or has been convicted of any

violation of this local law or of any crime or offense endangering the peace, safety, health or general welfare of the inhabitants of the Village. Within ten (10) days after such suspension, the Village Clerk shall conduct a hearing and issue her determination as to whether the license shall be revoked or reinstated. If such hearing or determination is not made within said ten (10) day period, the license shall be restored automatically.

Section 12. Appeal.

Any licensee aggrieved by any action or determination of the Village Clerk may appeal to the Mayor of the Village or any agent or agency designated by him, within fourteen (14) days after notice of the action or determination complained of has been mailed to him, by filing a written statement setting forth fully the grounds for the appeal. The Mayor or his agent shall set a time and place for a hearing on such appeal and notice of such hearing shall be mailed to the applicant's last known address at least five (5) days prior to the date set for the hearing. The decision and order of the Mayor or his agent on such appeal shall be final and conclusive.

Section 13. Records.

The Village Clerk shall keep a record of all applications and of all licenses granted hereunder, giving the number and date of each license, the name and residence of the person licensed, the license fee paid, and also the date of revocation of license, if any.

Section 14. Enforcement.

The Mayor, and the Code Enforcement Officer of the Village of Chestnut Ridge are each hereby authorized and empowered to enforce this local law by the issuance of appearance tickets for any violation hereof.

Section 15. Penalties for offenses.

Any person violating any of the provisions of this local law shall be subject to a fine of not more than \$1,000.00 for each violation and/or imprisonment for not more than fifteen (15) days, and each day of such violation shall constitute a separate offense.

Section 16. Severability.

If any portion, subsection, sentence, clause, phrase or section of this local law is held to be invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct independent provision, and the same shall not affect the validity of the remaining portion thereof.

Section 17. When effective.

This local law shall take effect immediately.

Adopted: April 16, 1987