

Resolution #47 presented by Mrs. Cornwall , Seconded by Mr. Arsenault

ORDINANCE #1 OF 1991

ORDINANCE RESTRICTING PEDDLING, VENDING AND SOLICITING IN THE TOWN OF JOHNSBURG

The Town Board of the Town of Johnsburg hereby ordains and enacts an Ordinance restricting Peddling, Vending and Soliciting as of the 19 day of March 1991, as follows:

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 herein after 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 the Ordinance shall mean and include a building or store in which the person trans- acts 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, corporation, partnerships, association, joint stock companies, societies and all other entities of any kind capable of being used.

SECTION 2. EXEMPTIONS:

Nothing in this Ordinance shall be held to apply to any sales conducted pursuant to state 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 or persons who produce such commodities, or to dealers in milk, baked goods, heating oil and daily newspapers. All persons soliciting or collecting for any bona fide charitable, religious, educational, or not-for profit organization, or any honorably discharged member of the U. S. Armed Forces who has procured a license as provided by the General Business Law of the State of N.Y., shall comply with the requirements herein, but shall be exempt from the payment of the license fee otherwise provided for herein.

SECTION 3. LICENSE REQUIRED:

It shall be unlawful for any person, within the territorial limits of the Town of Johnsbury, New York, 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 therefore.

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 or a legal resident 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 kind 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 all principal officers, if a corporation, and the names and addresses of persons 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 precedent section, the Town Clerk shall, upon his/her approval of such application, issue to the applicant a license as provided in Section 3, signed by the Town Clerk. Except as herein- after 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 be provided 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 arises. 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 FEE:

The license fee to hawkers, peddlers or solicitors shall be \$ 50.00 per year.

SECTION 7. EMPLOYEES OF LICENSEE:

Any licensee using a horse and wagon or motor vehicle may employ no 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. 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 shall 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 9. 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 stuff and edibles offered for sale well covered and protected from dirt, dust and insects.
- (c) 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.
- (d) not permit any vehicle used by him to stop or remain on any cross walk.
- (e) 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.
- (f) not solicit business between the hours of 9 o' clock in the evening and 9 o'clock in the following morning.

SECTION 10. 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 11. 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 12. 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 \$100.00 or more than \$ 200.00, and each day on which such violation continues shall constitute a separate offense.

SECTION 13. 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 effect, 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 14. EFFECTIVE DATE:

This Ordinance shall take effect ten days after publication and posting, or immediately upon personal service, as provided by Section 133 of the Town Law.