

**Resolution #135-01**

**Ordinance Regulating Peddling in the Town of Elmira**

**By Mr. Sullivan**

**Seconded by Mrs. Rohde**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Elmira for a public hearing to be held by said Town Board on August 20, 2001 at 7:00 P.M. at 1255 W. Water Street, Elmira, New York, to hear all interested parties on a proposed Ordinance Regulating Peddling in the Town of Elmira, and

WHEREAS, Notice of said public hearing was duly advertised in the Star Gazette, the official newspaper of the Town of Elmira on August 6, 2001, and

WHEREAS, said public hearing was duly held on August 20, 2001 at 7:00 P.M. at 1255 W. Water Street, Elmira, New York and all parties in attendance were permitted an opportunity to speak on behalf or in opposition of said proposed Ordinance, or any part thereof, and

WHEREAS, the Town Board of the Town of Elmira after due deliberation finds it in the best interest of the Town to adopt the said Ordinance,

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Elmira hereby adopts an Ordinance Regulating Peddling in the Town of Elmira, a copy of which is made a part of this Resolution:

**ORDINANCE REGULATING PEDDLING IN THE TOWN OF ELMIRA**

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**1. Definitions.** As used in this Ordinance, the following terms shall have the meanings indicated  
**PEDDLER-** Includes, except as hereinafter expressly provided, any person, either principal or agent, who goes from place to place, or house to house who stands in any street or public place, and sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, or services, including making, manufacturing or repairing any article, to be performed now or in the future.

**ESTABLISHED PLACE OF BUSINESS-** Includes a building or store in which or where a person transacts business and deals in the goods, or services he or she offers for sale for during regular business hours.

**2. Exceptions.** 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 for soliciting orders from customers and delivering the same; to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farms and gardens; or so as unlawfully to interfere with interstate commerce.

**3. License Required.** No person shall act as a peddler within the Town of Elmira without having in force and effect a license therefor issued to him or his employer.

*\* Must have for all applicants - except fee - that will be waived -*

4. **Application for License.** Any person desiring a license as herein provided shall file with the Town Clerk upon a form furnished by the Town a written application containing the name and residence address and business address of the applicant, the kind of business, the wares and merchandise to be sold or the kind of service to be performed, the method of distribution, the number and kind of vehicle to be used in carrying out the activities listed and such other information as may be required by the Supervisor. Such application shall be accompanied by a cash deposit of the fee for the license, which fee shall be Twenty-Five (\$25.00) Dollars for an applicant using not more than (1) motor vehicle and a further fee of Twenty-Five (\$25.00) Dollars from the time to time for each additional motor vehicle to be used in carrying out the activities.

The following persons or organizations shall not be required to apply for a license under this Ordinance:

- a. Persons under the age of eighteen (18) years
- b. Non-profit charitable organizations. However, such organizations shall register annually with the Clerk, and will indicate the type of activities to be undertaken and the times when they will be performed.

5. **Issuance or Refusal of License.** Upon the receipt of a properly completed application and of the required fee, the Clerk shall grant a license authorizing the applicant to act as a peddler within the Town for a period of one (1) year from the date of issuance of such license or the Clerk, at the direction of the Supervisor may refuse to grant such license for a specific reason for the protection of the public safety, health, property, morals or general welfare and return the fee to the applicant.

6. **Use of License.** A license issued under this chapter shall extend only to the person to whom it is issued, or, if the licensee is other than a natural person, to its agent or employee acting in the course of the business of the licensee, and a license shall be valid only for the purposes contained on the application for such license.

7. **Display of License.** Every person acting as a peddler under this Ordinance shall produce for inspection the license required by this Ordinance upon demand of any magistrate or police officer, and a failure to produce a valid license shall be a violation of this Ordinance.

8. **Permitted Hours.** No peddlers shall perform any permitted activity in the Town of Elmira before 8:00 A.M. and after 7:00 P.M.

9. **Revocation of License.** The Clerk, upon direction of the Supervisor, may revoke any license issued under this Ordinance at any time for a violation of this Ordinance. When a license is revoked, no refund of any portion of the license fee shall be made. Notice of such revocation and the reason or reasons, in writing, shall be served upon the licensee named in the application personally or by mailing in a postpaid wrapper to the business or residential address given in the application for such license.

10. **Restrictions on Licenses.** A licensed peddler shall;

- a. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- b. Not wear or exhibit any identification provided by the Town after the expiration or revocation of the license represented by it.
- c. 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.

d. Not stand or permit the vehicle used by him to stand in one (1) place in any public place or street for more than ten (10) minutes or in front of any premises for anytime if the owner of or lessee of the ground floor thereof objects.

e. Not sell any confectionary or ice cream within two hundred fifty (250) feet of any school between the hours of 8:00 A.M. and 4:00 P.M. on school days.

f. Not permit any vehicle used by him to stop or remain on any crosswalk.

10. **Penalties for Offenses.** Any person, firm or corporation who or which violates any provision of this Ordinance shall, upon conviction, be punished by a fine not to exceed One Hundred (\$100.00) Dollars.

Aye- Rohde, Prunier, Sullivan, Lapple

No- Bush