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DEPARTMENT OF STATE

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January 14, 2019

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JAN 17 2019

VILLAGE OF NUNDA

Village Clerk
4 Massachusetts Street
PO Box 537
Nunda NY 14517-0537

RE: Village of Nunda, Local Law 3 & 4 2018, filed on January 7, 2019

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



Department
of State

**LOCAL LAW NO. 4- 2018
VILLAGE OF NUNDA
PEDDLING AND SOLICITING LAW**

Section 1: Definitions and wordusage.

- A As used in this chapter, the following terms shall have the meanings indicated:

CANVASS and CANVASSER — Shall be considered as synonymous with the terms "solicit" and "solicitor."

NEWSPAPER — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law and, in addition thereto, any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

PEDDLE — To go from house to house, from store to store, from place to place or from street to street or to stand in a fixed or stationary position, or any combination thereof, to sell and make immediate delivery or offer for sale and delivery any goods, wares, merchandise or provisions in possession of the seller at any place within the Village of Nunda other than from a fixed place of business.

PEDDLING VEHICLE — A vehicle, as defined in the Vehicle and Traffic Law of the State of New York, particularly designed or used for the sale at the vehicle of food, beverages, ice cream and other items intended for human consumption or for the sale of merchandise at the vehicle or for services rendered or to be rendered in, on or at the vehicle as, for example, in the sharpening of tools and lawn mowers.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited, temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging to or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACES — Any and all streets, boulevards, avenues, lanes, alleys or other public ways and any and all public parks, squares, plazas, grounds and buildings.

- B Words singular in form may include the plural, and any words plural in form may include the singular, and words in the masculine gender shall include the feminine and neutergenders.

Section 2: Permit required; responsibility of employer.

- A It shall be unlawful for any person to peddle within the Village of Nunda without having first obtained a valid permit therefor, as provided

hereunder.

- B. Every employer who hires a person to peddle on his behalf shall share the same responsibility with respect to penalties hereunder, in the event that said person shall peddle without having first obtained a valid permit.

Section 3: Application for permit.

Applicants for a permit under this section must file with the Board of Trustees, Village of Nunda, an application in the form of a sworn affidavit, in duplicate, which shall give the following information:

- A. The name and description of the applicant.
- B. The address of the applicant.
- C. A brief description of the nature of the business and the kind of goods or property to be peddled or solicited.
- D. A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or offense against any municipal ordinance or local law, the nature of the offense and the punishment or penalty assessed therefor.
- E. Two photographs of the applicant taken not more than 60 days prior to the date of filing of the application, which pictures shall not be larger than 1 1/2 inches by 1 1/2 inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
- F. For identification purposes, a statement that the applicant is a citizen and whether citizenship was obtained by birth or naturalization and, if by naturalization, the date and place where citizenship was obtained. If the applicant is an alien, he must submit proof of legal entry into the United States of America.
- G. If the applicant is employed to peddle, solicit or canvass, the name and address of his employer, together with credentials establishing the precise employment relationship, shall be submitted.
- H. In any application for a permit or renewal hereunder, the applicant shall produce a valid certificate of registration and certificate of authority as required by the New York State Department of Taxation and Finance.

Section 4: Investigation; issuance of permit.

- A. Upon receipt of the sworn application, the Village Clerk shall forward a copy thereof to the Nunda Village Police Department for an investigation of the applicant.
- B. If the investigation shall establish that the applicant has a police record, the Nunda Village Police Department shall attach a copy thereof to the application

and return both to the Board of Trustees. If no police record is found, a statement to this effect shall be attached to the application, in lieu of the police record.

- C. If the investigation shall satisfy the Board of Trustees that the applicant is a fit and proper person to hold a peddler's permit, the application shall be favorably received; otherwise it shall be denied.
- D. Upon the return of an application and approval by the Board of Trustees, the Village Clerk shall prepare and issue to the applicant his permit. The permit shall contain the seal of the Village, the signature of the issuing officer, the name, address and photograph of the permittee, the kind of goods to be peddled thereunder or the purpose of the permit, the amount of fee paid, the permit number, the date of issuance and date of expiration of such permit, as well as the state license number or other identifying description of the vehicle, if for a vehicular license.
- E. No permit shall be issued by the Village Clerk unless all conditions imposed by this chapter are fully complied with to the satisfaction of the Board of Trustees.
- F. No permit shall be issued by the Village Clerk to any minor under 16 years of age.
- G. The Village Clerk shall keep a record of all permits issued.

Section 5: Other licenses, permits and certificates; signs.

- A. If the applicant for a peddler's permit uses scales or measures in his business, he shall also file with his application for a permit a certificate issued by the Livingston County Department of Consumer Affairs, Weights and Measures Division, that his scales or measures have been tested and sealed.
- B. If the applicant for a permit is to handle food in any form, he will be required to submit with his application evidence that he has complied with the provisions of the Livingston County Department of Health Services.
- C. Any person or any employee of any organization who is required to be registered with the New York State Department of Social Services, under the provision of the Social Services Law of the State of New York relating to the solicitation and collection of funds for charitable purposes, must exhibit evidence of this registration to the satisfaction of the Board of Trustees.
- D. Every peddling vehicle permitted pursuant to this section shall be equipped in the front and rear with a sign inscribed with the legend "Caution. Watch out for children."

Section 6: Fees; exemption for veterans.

- A. For each person proposing to peddle whether on foot, from a licensed vehicle or otherwise, the annual fee shall be \$50.
- B. For each vehicle not exceeding a gross weight of 5,000 pounds, the annual fee shall be \$25; for each additional 1,000 pounds or major fraction thereof, the annual fee shall be \$25 up to a maximum annual fee of \$100.
- C. In the event of the loss or destruction of any personal or vehicle permit certificate, license plate or license badge issued pursuant to this section, the certificate, plate or badge may be replaced by application therefor to the Village Clerk, together with the return of the accompanying certificate, plate or badge, where feasible, and the payment of a fee of \$10.
- D. For each vehicle substituted or replaced by another vehicle, the fee shall be \$10.
- E. The annual fees herein provided for shall be assessed and paid annually on a calendar-year basis. All permits issued pursuant to this section shall expire on the last day of December next following the date of issuance. No reduction or allowance shall be made in fees for permits issued for a fractional part of the year.
- F. Annual fees shall include the fee for the application for the permit and shall not be refundable in the event the application is denied.
- G. Any honorably discharged veteran of the armed services of the United States who has obtained a veteran's license from the Livingston County Clerk to hawk, peddle, vend or solicit trade pursuant to law shall be exempt from the provisions of this section. In lieu of a license and license plate, as prescribed herein, the Village Clerk, upon approval of the veteran's application, will issue a badge or permit to said veteran to peddle or solicit within the Village of Nunda subject to all other provisions of this section. In addition to the issuance thereof, said permit number and other pertinent information shall be stamped in ink on the county license.

Section 7: Possession and display of permit.

Every peddler permitted pursuant to this section shall have his permit in his immediate possession at all times when peddling and shall display same upon the demand of any person.

Section 8: Persons and activities exempt from application of this section.

- A. With the exception of Section 11 in relation to the time of day soliciting is permitted, this section shall not apply to duly organized religious corporations and religious agencies, educational institutions, fraternal, patriotic, social and alumni organizations and others mentioned as exempt from the provisions of Article 10-A of the Social Services Law regarding the

registration of a charitable organization with the State Department of Social Services, nor to any political organization or any division, branch, part or representative thereof.

- B. This section shall not apply to persons engaged in the distribution of a newspaper published at stated intervals for the purpose of conveying news to its subscribers or buyers.
- C. The provisions of this section, including those which relate to the time of day that soliciting is permitted, shall not apply to agents or personnel representing any private or public utility or transportation corporations incorporated under the laws of the State of New York.
- D. This section shall not apply to any person who keeps, maintains or operates a store, market, shop or similar permanent place of business whereby he operates a truck or other vehicle for the purpose of making deliveries of goods, wares, merchandise or provisions bought or ordered at his place of business, nor to any person solely engaged in the business of delivering goods, wares, merchandise or provisions for or on behalf of one or more places of business.

Section 9: Registration with state; record.

Any person required by the provisions of Article 10-A of the Social Services Law of the State of New York to register with the State Department of Social Services must, whether or not otherwise required to be permitted under the provisions of this section, exhibit to the Board of Trustees evidence of the registration. The Village Clerk shall keep a record of all persons intending to peddle within the Village of Nunda who have registered under Article 10-A of the Social Services Law, along with a description of the activities for which they have so registered.

Section 10: Restrictions on use of public ways; determination of police officers.

- A. It shall be unlawful for any peddler to have any exclusive right to any location in any street or on any public property in accordance with the following prohibitions:
 - (1) It shall be unlawful for any person to peddle within 200 feet of any place used or occupied as or for the purpose of a public or private school or to permit his cart, wagon or vehicle to stand on any street or public place within 200 feet of such school property.
 - (2) A peddler shall not be permitted to stand in one place for more than 20 minutes.
 - (3) A peddler shall not be permitted to peddle in any congested area where his operation might impede pedestrian or vehicular traffic.
- B. For the purpose of this section, the judgment of any peace officer or

police officer exercised in good faith shall be deemed conclusive as to the existence of congestion and as to whether there is any impediment of pedestrian or vehicular traffic.

- C. It shall be unlawful for a peddler to peddle upon or within any street or other public place or any public or private off-street parking area within the B1 Business District as defined in the Zoning Code of the Village of Nunda.

Section 11: Prohibitions.

- A. It shall be unlawful for any person to enter upon private property for the purpose of peddling except upon the express invitation or permission of the owner, occupant or lessee.
- B. It shall be unlawful for any person to enter upon private property for the purpose of peddling before the hour of 9:00 a.m., prevailing time, or after 1/2 hour before sunset or 7:00 p.m., prevailing time, whichever is later, on any day of the week, except at the express invitation of the owner or occupant.

Section 12: Revocation of permit.

- A. Permits issued under the provisions of this section may be revoked by the Board of Trustees, after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for permit.
 - (2) Fraud, misrepresentations or false statement made in the course of carrying on his business as a peddler.
 - (3) Any offense against this section.
 - (4) Conviction of any crime or misdemeanor.
 - (5) 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 inhabitants of the Village of Nunda.
 - (6) The peddling of any goods or property not described in the application for a permit herein or the peddling of any goods or properties which are dangerous or injurious to the purchaser, especially to a child.
- B. Notice of the hearing for the revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five days prior to the date set for the hearing. The decision and order of the Board of Trustees shall be final and conclusive.

Section 13: Enforcement; reports and records of offenses.

It shall be the duty of all duly authorized peace officers and of any police officer of the Village of Nunda to enforce the provisions of this section, to make arrests or issue appearance tickets or other legal process for offenses against the provisions of this section and to report to the Board of Trustees all offenses observed, whether or not any criminal prosecution is based thereon. The Board of Trustees shall record all reports of offenses and convictions for offenses against this section.

Section 14: Penalties for offenses.

Any person, as defined in this chapter, committing any offense against this chapter or any section or provision thereof shall be guilty of a violation punishable by a fine not less than \$250 or imprisonment for a period not exceeding 15 days for each such offense, or by both such fine and imprisonment.

Section 15: Severability.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved in the controversy in which said judgment shall have been rendered, it being the legislative intent that this local law would have been adopted even if such unconstitutional or void matter had not been included therein.

Section 16: Repeal of Prior Local Laws and Ordinances.

This law shall supersede all prior local laws, ordinances, rules and regulations relative to peddling and soliciting within the Village of Nunda and they shall be, upon the effective date of this law, null and void.