

## Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY NY 12231

(Use this form to file a 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.

Village of Wellsville

Local Law No. 5 of 1995

A Local Law regulating street sales on or near village park land

Be it enacted by the Board of Trustees of the

Village of Wellsville as follows:

### SECTION 1-PURPOSE

The Village Board has determine d that the selling or hawking of goods, or the distribution or offering of literature such as hand bills or programs at and near the outside entrances to areas of the park and recreational areas of the Village, creates a danger to the operation of motor vehicles, and to pedestrians, approaching, entering or actually on park areas. Such activities interfere with the traffic flow of vehicles and pedestrians, resulting in congestions and safety concerns. The Board, therefore, pursuant to the authority of Village Law 4-412(1) and Village Law 6-602, enacts this Local Law.

### SECTION 2-DEFINITIONS

The following terms in this Local Law shall have the following meanings:

#### A. Non-Sales Areas:

1. Immediate entrances to and exits from the Park areas, vehicular ways within the Park areas, any parking lots in Park areas, including designated temporary parking areas.

2. Approaches to Park Areas: All public streets in the Village within the following inclusive boundaries: South Main Street, West State Street, South Brooklyn Avenue, and the southerly boundary of the Village, including, but not limited to: West Hanover Street; West Dyke Street on both sides of the Genesee River; a portion of New York Route 417 also known as the Arterial, between its State Street and South Main Street between West State and the Arterial; and any pedestrian bridge across the Genesee River or Dyke's Creek that connects with Island Park.

B. Street-The same meaning as contained in Village Law Section 6-600 and as defined by Vehicle and Traffic Law Section 148.

C. Sell-Share mean the selling, hawking, or offering for sale, distribution, or trade with or without consideration, or selling price, of any object or item, including, but not limited to advertising, souvenirs, handbills, programs, or food items.

D. Park Lands or Park Areas shall mean the followings:

- (1) Tullar Field Recreational Area;
- (2) Island Park;
- (3) The Lagoon Recreational Area;
- (4) The Quackenbush Recreational Area; and
- (5) All public parking lots contiguous to the above.

E. Farmers' Market- Which can be a temporary, periodic sales event offering products of arts and crafts, plants, produce, baked goods and other food items such as honey, jellies, and jams, which are homemade or home produced and sold by those who produce, grow or manufacture the items. A Farmers' Market should be considered seasonal and involves no permanent structure, but rather sales made from tables, tents or vehicles.

#### SECTION 3-SELLING PROHIBITED

A. Selling within non-sales areas as defined herein is hereby prohibited except as herein provided.

B. EXCEPTION: The Village Clerk, on behalf of the Board of Trustees, may specifically authorize, by permit, a Farmers Market, or village board sanctioned events, at designated times and areas in Island Park vehicle parking areas, upon such terms and conditions as are reasonable and appropriate. All such permit holders shall be required to cluster their sale tables, tents or vehicles into a designated area so as to minimize hinderance to customer vehicular or pedestrian traffic.

#### SECTION 4-PENALTY

Non compliance with this Local Law shall constitute a violation as defined by Section 10 of the Penal Law of the State Of New York, and shall be punishable, upon conviction, by a fine not exceeding Two hundred Fifty Dollars (\$250.00) or by imprisonment for not more than six (6) days, or by both such fine and imprisonment.

#### SECTION 5-EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

(Please Use this Form for Filing your 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 ..... WELLSVILLE .....  
Town  
Village

Local Law No. .... 3 ..... of the year 19 ..... 93

A local law ..... PEDDLING AND SOLICITING .....  
(Insert title)

BOARD OF TRUSTEES

Be it enacted by the ..... of the  
(Name of Legislative Body)

County  
City of ..... WELLSVILLE ..... as follows:  
Town  
Village

ARTICLE I

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- 2 Application for and issuance of license.
- 3 Rules of conduct.
- 4 Registration by residents not desiring visits by merchants.
- 5 Hours limited.
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- 13 Hours limited.
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(If additional space is needed, please attach sheets of the same size as this and number each)

ARTICLE III  
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ARTICLE V  
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Purpose and Authority--Purpose is to provide health and safety of residents of the Village by regulating merchant and solicitors who travel door to door in the various neighborhoods.

Authority--Village Sec. 4-412

ARTICLE I-- Transient Retail Business

-1. License required.

It shall be unlawful for any person to engage in transient retail business for the sale of goods, wares or merchandise within the Village of Wellsville by visitation to private homes or residences or on the public streets or highways of the Village of Wellsville who is not the holder of a valid and unexpired license issued pursuant to this Article.

-2. Application for and issuance of license.

A. No license shall be issued unless the following information is given by the applicant:

(1) Full identification, including proof thereof by voter's registration card, vehicle operator's license or some other accepted method of identification, with residence and office address.

(2) The identification of goods, wares or merchandise which the applicant intends to sell.

(3) The address at which the applicant will receive notices under this Article.

(4) The name and address, phone number and contact person of the employer or principal, if any, and the nature of the business activity thereof, and written authority.

(5) The nature of the business or activity in which the applicant wishes to engage within the Village.

(6) The time period within which the sale of goods, wares or merchandise will be conducted.

(7) A statement as to whether the applicant has been convicted in any jurisdiction of any crime, other than minor traffic violations, and, if so, what crime or crimes.

(8) A current photograph of the applicant.

(9) A fee to be determined from time to time by resolution of the Board of Trustees to defray the cost of administering this Article.

b. Upon submission of said application, with the supporting evidence and the payment of the fee as aforesaid, the Village Clerk shall issue to the applicant a license in the form of a card which shall, unless revoked, entitle the licensee to engage in the activities applied for, for a period of one (1) year from the date of issuance; provided, nevertheless, the licenses may be renewed annually upon payment of the fee hereinabove provided and the annual amendment of the original application to reflect any changes necessary in the information therein contained.

Licenses regulated by this Article shall carry their licenses at all times while engaging in the sale of goods, wares, or merchandise within the Village and shall show their licenses to residents in order to identify themselves prior to any actual sale of such goods, wares or merchandise and, in addition, shall comply with the following rules of conduct:

A. The licensee shall carry said license card at all times and exhibit it upon request to any peace officer or to any person upon whom the licensee shall call or with whom the licensee shall talk in carrying on the licensed activities.

B. The licensee shall not permit any other person to have possession of his license card and shall immediately report its loss to the Village Clerk. The licensee will not cause or permit said license card to be altered or defaced.

C. The licensee shall not enter or attempt to enter any dwelling house without invitation or permission of the occupant and shall immediately leave any premises upon request.

D. The licensee shall not represent said license card to be an endorsement of the licensee or of the licensee's goods, wares or merchandise of the licensee's principal or employer.

E. The licensee shall immediately surrender said license card upon revocation or expiration of the license as hereinabove provided.

-4 Registration by residents not desiring visits by merchants.

A. Any resident of the Village of Wellsville not wanting to be visited or called upon by transient merchants for the sale of goods, wares or merchandise may register in the following manner at the office of the Village Clerk in a list of registrants of the Village of Wellsville who do not desire to be visited or solicited at their homes:

(1) Said resident or residents shall either personally appear, or, on forms supplied by the Village Clerk, register with the Village Clerk, advising that said resident or residents do not want transient merchants to call at their homes.

(2) The Village Clerk shall keep on file at all times a registration book showing the names and addresses of the residents of the Village of Wellsville who have registered as not wanting transient merchants to call at their homes.

(3) Said residents, in addition, shall be furnished a sticker by the Village Clerk, which may be affixed to the front door of the resident's principal residence advising that no transient merchandise can be sold.

B. Every applicant shall personally read said list of residents of the Village of Wellsville who are registered as not wanting to be approached or contacted for the sale of goods, wares or merchandise and will sign any affidavit that said list has been reviewed by the applicant, and the applicant shall obtain from the Village Clerk a photostatic copy of said list.

-5 Hours limited.

The hours for the sale by transient merchants of goods, wares and merchandise shall be limited to the period from 9:30 am to 4:30 pm, Mondays through Fridays, exclusive of holidays. No sales will be permitted on Saturday or Sunday. If there are reasonable grounds to believe that these hours and days are violated by such transient merchants, their license may be suspended forthwith by the Village Clerk.

-6 Revocation of license.

A. If the Village Clerk has reasonable grounds to believe that any licensee provides any false or misleading information concerning his or her identification or the identity of the organization for which the sale of such goods, wares or merchandise is being conducted, the license issued to that licensee may be suspended summarily by the Clerk.

If the Village Clerk has reasonable grounds to believe that any licensee fails to comply with the standards of conduct set forth in Section 128-3 hereof, such license

theretofore issued to such licensee may be summarily suspended by the Clerk.

-7 Notice of Refusal, suspension or revocation.

Notice of suspension or revocation, in any case, shall be promptly given by written notice, promptly personally served or sent by certified mail to the address designated for this purpose in the application for a license and to the person whose license is suspended.

-8 Hearings.

Any person whose license has been refused, or suspended by the Clerk shall be entitled to a hearing before a Hearing Officer designated by the Board of Trustees and shall be entitled to appear with his own counsel, if he so desires, and be heard on behalf of a request for reinstatement or issuance of said license. He may, through counsel or himself, examine and cross-examine all witnesses who testify in said proceeding. The Board shall review the record and recommendations of the Hearing Officer. The Board may annul or affirm the suspension order, or, may revoke the license. Notice shall be given to the licensee's principal of the action taken. The Board shall review the Clerk's action within five (5) business days after application in writing by the licensee.

-9 Sales upon business properties.

The sale of goods, wares and merchandise shall be permitted at any business establishment and upon any business property, such as shopping center parking lots during normal business hours with the consent of the owner, manager, or other person, firm or corporation in charge of any such business establishment or business property; provided, nevertheless, that any applicant who intends to sell goods, wares or merchandise at or upon such locations shall, at the time of application for the license as herein provided, exhibit to the Village Clerk the written consent of the owner, manager or other person, firm or corporation in charge of any such business establishment or business property.

ARTICLE II

Soliciting

-10 Registration required.

It shall be unlawful for any person to go upon residential property within the Village of Wellsville to solicit funds from Village residents for any religious, charitable or non profit cause by knocking upon residential doors or by ringing doorbells so as to cause, or attempt to cause, residents to open their doors, unless the citizen doing the solicitation has first registered at the office of the Village Clerk and has received an identification card from the office of the Village Clerk.

-11 Information required.

No identification card shall be issued unless the following information is given by the applicant:

A. Full identification, including proof thereof by voter's registration card, vehicle operator's license or some other accepted method of identification, with residence and office address, and written authority from any principal or employer.

B. The name, address, phone number and name of contact person of the organization for which the applicant is soliciting together with written authority from that organization.

C. The length of time the soliciting is to be carried on.

D. The address at which the applicant will receive notices under this Article.

E. A statement as to whether the applicant has been convicted in any jurisdiction of any crime, other than of minor traffic violations, and, if so, of what crime or crimes.

F. A recent photo.

-12 Identification cards to be available for inspection.

Solicitors regulated by this Article shall carry their identification cards, which shall be issued by the Village clerk without charge, at all times while soliciting funds as aforesaid within the village and shall exhibit their identification cards to residents in order to identify themselves prior to any actual solicitation of funds.

-13 Hours limited.

All solicitations carried on by persons for charitable, religious or non profit causes shall, in the case of residential door-to-door or house-to-house calling be restricted to the following hours:

A. From October 1 through April 30, such solicitation shall be limited to the period from 9:00 am to 5:00 pm, prevailing local time, including Saturdays and Sundays.

B. From May 1 through September 30, such solicitation shall be limited to the period from 9:00 am to 9:00 pm., prevailing local time, including Saturdays and Sundays.

-14 Denial or revocation of identification card; hearing.

A. The provisions of Section 6 shall be applicable to a denial, suspension or revocation of a solicitor's license.

B. Any person grieved hereunder shall be entitled to a hearing as provided in Section 8.

-15 Solicitation on business properties.

Solicitation of funds for charitable, religious or nonprofit causes shall be permitted at any business establishment and upon any business property such as shopping center parking lots, during normal business hours, but those solicitors shall also register with the Village Clerk and carry identification cards. In the event that the owner, manager or other person, firm or corporation in charge of any such business establishment or business property objects to such solicitations, then, and in that event, the solicitor shall

forthwith cease and desist such solicitation at such business establishment. In the event that such solicitor fails, neglects or refuses to cease and desist such solicitation at such business establishment after having been requested so to do, the person, firm or corporation manner or other person in charge of any such business establishment or business property may proceed to charge such solicitor with a violation of this section of this Article.

-16 Registration by residents not desiring solicitor's visits.

A. Any resident of the Village of Wellsville not wanting to be visited or called upon by solicitors for contributions, gifts, pledges of money or other items or things of value for any religious, charitable or nonprofit cause may register at the office of the Clerk of the Village of Wellsville on a list of the registrants of the Village who do not want to be visited or solicited at their homes for such purposes in the following manner:

1. Said resident shall either personally appear, or on forms supplied by the Village Clerk, register with the Clerk advising that said resident does not want such solicitors to call at his/her home.

2. The Village Clerk shall keep on file at all times a registration book showing the names and addresses of the residents of the Village who have registered as not wanting such solicitors to call at their homes.

3. Said residents, in addition, shall be furnished a sticker by the Village Clerk, which may be affixed to the front door of the resident's Personal residence, advising that no solicitation be made.

B. Every applicant for an identification card shall personally read such list of residents of the Village who are so registered and shall sign an affidavit that said list has been reviewed by said applicant, and the Village Clerk shall furnish to the applicant a copy of said list at no charge.

### ARTICLE III Exemptions

-17 Exemptions

1. An honorably discharged member of the armed forces who is crippled as a result of injuries received while in the military services of the United States, who has procured a license from the Allegany County Clerk as provided by Article 4 of the General Business Law of the State of New York.

2. Any person soliciting at the express invitation of the person solicited or serving an established customer.

3. A wholesaler selling articles to dealers or merchants who have an established place of business within the Village.

4. A truck gardener or farmer who himself, or through his employees, vends, sells or disposes of products of his own farm or garden.

5. A child permanently residing in the Wellsville Central School District or adjacent school district and attending any public, parochial or private school located in the Wellsville School District or an immediately adjacent school district; provided that any person coming within the provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the school which such person attends.

6. Representatives of any established church maintaining a place of worship within the town or an immediately adjacent town soliciting only from members of the church.

7. Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.

8. A member of a veterans' organization, provided that such organization has and maintains a chapter, post, lodge, camp or other group within the Town of Wellsville; or a member of a fraternal organization or civic group; provided that such fraternal organization or civic group maintains a chapter of local organization within the Town of Wellsville.

9. Traditional fund raising projects such as Salvation Army Kettle solicitation, Disabled Veterans poppy sales and flower sales by health organizations such as Cancer Society.

#### ARTICLE IV

##### Penalties

-18 Penalties for offenses.

Any person committing an offense against any provisions of this Article shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

#### ARTICLE V

##### Effective Date

-19 Effective Date

This local law shall take effective immediately upon its filing with the Secretary of State.