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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 Sheldon**
Town
~~Village~~

Local Law No. 1 of the year 2013

A local law entitled, "REGULATING HAWKING, PEDDLING AND SOLICITING WITHIN THE TOWN OF SHELDON"

Be it enacted by the Town Board of the

~~County~~
~~City~~ **of Sheldon as follows:**
Town
~~Village~~

As set forth in the attached page(s).

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Be it enacted by the Town Board of the Town of Sheldon as follows:

SECTION I. STATUTORY AUTHORITY, TITLE

This Local Law is adopted pursuant to the authority granted by Municipal Home Rule Law of the State of New York, specifically §10 of Article 2, which allows local government to adopt and amend local laws.

SECTION II. SHORT TITLE

This Local Law shall be known and may be cited as a "hawking, peddling and soliciting local law.

SECTION III. PURPOSE

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

SECTION IV. DEFINITIONS

For the purpose of this local law the terms used herein are defined as follows:

"Established price or place of business" is a permanent building, store or depository in which or where the person transacts business and deals in the goods, wares, commodities or services he/she hawks or peddles in the ordinary course of business.

"Hawker, peddler or solicitor" includes, unless herein otherwise provided, any person who engages in merchandizing any goods, wares, commodities or services by going from house to house, place of business to place of business, or in any public street or public place or by temporarily occupying a room, building or other premises therefore.

"Merchandising" is the selling, bartering or trading or offering to sell, barter, or trade any goods, wares, commodities or services or soliciting for the sale, trade or barter or wares, goods, commodities or services.

"Person" is any individual, firm, partnership or corporation, unincorporated association and principal or agent thereof.

"Temporary occupancy" is the occupancy of a store, room, building, tent, enclosure or structure of any kind for no longer a period of time than is necessary to hawk or peddle his service or services or merchandise or products therein housed without an intent to supply continuous service or to replenish or restock the goods, wares or merchandise sold therein since. In all prosecution for a violation of this local law, the intent of the defendant to conduct an established place of business shall be a material fact in the burden of furnishing proof of such intent shall be upon the defendant as such prosecution.

SECTION V. UNLAWFUL TO HAWK, PEDDLE OR SOLICIT WITHOUT A LICENSE

Merchandising any goods, wares, commodities or services within the Town of Sheldon without first obtaining a license therefore from the Town Clerk is hereby prohibited unless such merchandise or service is furnished at the personal request of the person buying the same or unless such license is not required under the provisions Section VI of this local law.

SECTION VI. EXEMPTION FOR LICENSES

The provisions of this local law shall not apply to the following:

A. Dealers, merchants, tradesmen or members of a profession having an established office or place of business within the Town of Sheldon.

B. Any person serving an established customer or soliciting at the expressed invitation of the person solicited.

C. A wholesaler selling articles to dealers or merchants within the Town.

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

E. A child regularly attending any public, parochial or private school and located within the school district of the Town of Sheldon or representative of any established church maintaining a place of worship within the Town or a member of a veterans organization provided that such organization has maintained a chapter, post, lodge, camp or other group within the Town of Sheldon, or a member of a civic group provided that such fraternal organization or civic group maintains a chapter or local organization within the Town of Sheldon. And further provided that any persons coming within the provisions of this exemption shall only hawk or peddle with connection with an authorized activity with such organization of which they are a member or the school which they attend.

F. Auctions or sales held pursuant to law by a Sheriff or other officer authorized by law to conduct such sale, or auctions held by a licensed auctioneer for a private

individual or for an established business or organization permanently doing business or operating in the Town of Sheldon.

G. The local law shall not apply so as to interfere unlawfully with interstate commerce.

H. This local law shall not apply to persons holding New York State veterans' licenses for hawking, peddling or soliciting as provided by the laws of the State of New York provided such person is duly licensed by the State of New York under such Acts and Laws applicable thereto.

SECTION VII. APPLICATION FOR LICENSE

Every applicant for a license is required to submit to the Town Clerk a written application supplying, under oath, the following information:

A. Name of applicant;

B. Permanent home residence;

C. Name and address of firm representing, if any;

D. The length of time for which the license is required;

E. A description of the goods, wares or commodities to be offered for sale together with a true invoice of their amount, quality and value;

F. The number of arrests or convictions for a crime and the nature there of;

G. To the application must be appended a letter of authorization from the firm which the applicant reports to represent;

H. Every applicant for hawking or peddling license issued pursuant to this local law shall submit a photograph "two-by-two" (2 x 2) taken within thirty (30) days of the date of the application for such license. Such photograph shall show head, full face and shoulders of the applicant and shall be submitted in triplicate. One (1) photograph shall be attached to the license application, one (1) copy of the photograph to the license, and a third shall be delivered to the Sheriff of Wyoming County.

SECTION VIII. GRANTING THE LICENSE

Upon receipt of the application of the license fee and if satisfied with the applicants qualifications, the Town Clerk shall issue a license to the applicant specifying the particular business authorized and the location wherein it may be conducted. This license shall be non-transferable and shall be in continuous possession of the licensee while engaged in the business licensing. The license shall be produced upon demand of any Town official or prospective buyer.

SECTION IX. RECORDING OF LICENSE

A. The Town Clerk shall keep a record of the application and the determination thereon and all licenses issued in accordance with this local law. The record shall contain the name and residence of the person licensed the location of the business, the amount of the license fee paid, and the date of revocation of all licenses revoked.

B. All licenses hereunder shall expire one (1) year from the date of issuance except a license issued for a shorter period than one (1) year shall expire at the expiration for which it was issued.

SECTION X. SCHEDULE OF FEES

The license fees for all licenses issued hereunder are $50.00 per year or $10.00 per day.

SECTION XI. RESTRICTIONS

A licensed hawker or peddler shall:

A. Not willfully misstate the quantity or quality of any article or service offered for sale.

B. Not willfully offer for sale any article of an unwholesome nature.

C. Not call attention to his goods by blowing a horn, ringing a bell, other than house doorbell, by shouting or crying or by a loud unusual noise.

D. Not frequent any street in such a manner as to create a private or public nuisance or breach of the peace.

E. Keep the vehicle and/or receptacles used by him in the furtherance of his license business in a clean, sanitary condition.

F. Keep his edible articles offered for sale well protected from dirt, dust and inset.

G. A licensed peddler or solicitor shall:

1. Not stand or permit the vehicles used by him to stand in one (1) place at any public street no more than ten (10) minutes or in front of any premises for any time if the owner of, or the lessee of the ground objects.

2. Not sell confectionery 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.

SECTION XII. REVOCATION OF LICENSE

A license may be summarily revoked by the Town Clerk by reason of a violation of the terms of the license. The violation of any municipal local law, ordinance, State or Federal Statute, or falsification in applying for a license written of such revocation stating the terms thereof shall be personally served upon the licensee or mailed to the address given in the application. Upon the filing of such notice of revocation in the Town Clerk's Office with Affidavit of Service, such license shall be revoked. A hearing upon the revocation of the license shall be granted the licensee if said licensee shall request such a hearing as hereinafter is provided.

SECTION XIII. REVIEW

In the event of the revocation of a license pursuant to the provisions of Section XI hereof, or in the event of the denial of a license to any applicant by the Clerk, the applicant may request a hearing within a period of thirty (30) days after such a revocation, refusal, or denial. Such requests shall be in writing and should be made to the Town Board of the Town of Sheldon and filed with the Town Clerk within the period provided herein. The Town Board shall hear such applicant's requests for a review of the determination of the Town Clerk at the next regularly scheduled meeting of said Town Board following the filling of the application of review with the Town Clerk. The Town Board may grant a license to the applicant if they should determine that the refusal on the part of the Clerk was arbitrary or otherwise in error. If the Town Board after such hearing shall determine that the decision of the Town Clerk was not arbitrary or was justified under the circumstances, the Board shall refuse such license. The decision of any hearing shall be rendered by the Town Board in writing within forty-five (45) days after the hearing thereof, and shall be entered into the minutes of the Town Board.

SECTION XIV. PENALTY

A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars ($350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars ($350.00) nor more than seven hundred dollars ($700.00) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years (5), punishable by a fine not less than seven hundred dollars ($700.00) nor more than one thousand dollars ($1,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.

Each week's continued violation shall constitute a separate additional violation.

SECTION XV. SEVERABILITY/VALIDITY

All resolutions and any ordinances or local laws, or portions thereof, of the Town of Sheldon not consistent with this law, in whole or in part, shall be repealed. In the event any part or section of this law shall be held to be unconstitutional or invalid, the remaining provisions thereof shall not fail but shall remain in full force and effect.

SECTION XVI. WHEN EFFECTIVE

This local law shall take effect upon filing with the Secretary of State.