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TOWN OF WALES

LOCAL LAW INTRO NO. ____-2012

LOCAL LAW NO. 1-2012

A LOCAL LAW, TO AMEND LOCAL LAW 1-1993 KNOWN AS
“ADOPTION OF CODE”, ADOPTED BY THE TOWN BOARD OF THE TOWN OF
WALES ON MAY 11, 1993, BY ENACTING CHAPTER 157 REGULATING
PEDDLERS AND SOLICITORS WITHIN THE TOWN OF WALES.

BE IT ENACTED BY THE TOWN BOARD AS FOLLOWS:

1. SECTION LEGISLATIVE INTENT

This Local Law amends a prior Local Law known as “Adoption of Code” adopted by the Town of Wales on May 11, 1993, as amended, relating to the administrative, legislative and general legislation of Codes within the Town of Wales by enacting Chapter 157 as therein set forth.

SECTION 2. CHAPTER 157, PEDDLING AND SOLICITING

Chapter 157, Peddling and Soliciting

Section 157-1. Permit required.

No person shall engage in peddling within the Town of Wales without first obtaining a permit from the Town Clerk in accordance with the provisions of this Chapter

Section 157-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

CHARITABLE – Organizations qualified under IRC 501(c)(3), Boy & Girl Scouts, youth athletic activities, public or private school clubs, and organizations approved as charitable organizations by the State of New York.

COMMERCIAL SOLICITATION – Solicitation other than the non-commercial solicitation identified in this Chapter.

NON-COMMERCIAL SOLICITATION – Solicitation for the purpose of political, religious or charitable purposes.

PEDDLER – Any person, whether principal or agent, who will carry or expose for sale or barter or sell, vend or barter any goods, wares or merchandise, including articles of food or otherwise, or engage in any similar type of activity, on foot or from any vehicle or temporary structure, within the Towns.

PEDDLING – The doing of any one (1) or more of said acts by a peddler in pursuance of business.

SOLICITATION – Request, directly or indirectly, for money, credit, funds, contributions, personal property, natural resources, or anything of value. Taking or attempting to take orders for the sale of goods, wares, merchandise or services. Providing a description of future delivery or for services to be performed in the future, either in person or by distributing fliers and leaflets. Selling and making immediate delivery of any goods, wares, merchandise or services. Solicitation does not include communications that are political, religious or charitable in nature, and does not involve the solicitation of money, funds, contributions or anything of value. Solicitation does not include delivery of items ordered by a resident or business such as newspapers, groceries and similar items.

Section 157-3. Peddling and soliciting exemptions.

- A. This chapter shall not apply to sales by the following persons:
- (1) A resident child under fifteen (15) years of age.
 - (2) A tradesman having an established place of business within the Town of Wales.
 - (3) A farmer or gardener, limited to the sale of the produce of his or her farm or garden.

- B. This Chapter shall not apply to the following types of sales transactions:
- (1) The sale, distribution and delivery of milk, tea, coffee, spices, groceries, meats and bakery goods.
 - (2) Solicitation of orders for or delivery of newspapers.
 - (3) Sales for the benefit of any charity which maintains a relationship with the Town of Wales in connection with the raising of funds for the work and maintenance of any such nonprofit organization.

Section 157-4. Requirements for issuance of permit.

- A. The Town Clerk or designated agent is hereby authorized to issue permits pursuant to this Chapter. **The terms and provisions of the application for a permit will be approved by the Town Board. The application must be submitted and approved at least thirty (30) days prior to proposed solicitation.**
- B. Permits will be granted for no longer than three (3) months. **The fee for each permit shall be determined by the Town Board from time to time and shall be paid in advance.**
- C. The permit is non-transferrable. Every natural person who is engaged in peddling must apply for his or her own permit. Employees of a business

engaged in peddling must apply for a separate permit.

- D. The fee may be waived if the applicant is a resident of the State of New York for a minimum of two (2) years prior to the date of application and is a veteran who served in time of war.
- E. **A permit for a non-commercial applicant shall be required by the organization only, not individual solicitors. Proof of organization qualified under IRC 501(c)(3) is required at the time of application. Solicitation by members of public or private schools requires written confirmation from the school administrator verifying school affiliation.**
- F. **A permit may be denied/revoked for misrepresentation on the application including misdemeanor and felony convictions for violation crimes, sexual assault, possession of drugs, theft, fraud, burglary or trespassing.**

Section 157-5. Application information.

Each person who applies for a peddler's permit shall give to the Town Clerk the following information on a designated application form:

- A. His or her name, home address and local address, if any.
- B. The address of his principal place of business and any trade names.

- C. His or her physical description, including age, height, weight and the color of his or her hair and eyes.
- D. If employed, the name and address of his or her employer.
- E. All locations where permits for peddling have ever been granted by or applied for in the past to any other governmental body.
- F. A written consent from the owner of the property intended to be used for the placement of a tent or other temporary structure or the parking of any vehicle, trailer or car, appended to the application.
- G. An insurance certificate from a reputable insurance company showing evidence that the applicant has adequate liability insurance for the benefit of persons who may be injured in the course of doing business with the applicant, in an amount of not less than one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per incident.
- H. Evidence of a state sales tax permit, if applicable, annexed to the application.

- I. Evidence of approval of the Erie County Health Department for the sale of food, if applicable.

Section 157-6. Display of permit.

Each person with a permit shall have the number of his or her permit plainly inscribed on any vehicle which he uses under such license and shall have in his or her possession the permit furnished by the Town Clerk bearing the number of his or her permit that is in force. Any person with a permit

shall produce such permit for examination to any purchaser or prospective purchaser and upon request by any law enforcement official or officer charged with the enforcement of this Chapter.

Section 157-7. Denial or revocation of permit.

- A. The application for a permit may be denied if, in the discretion and judgment of the Town Clerk, it fails to meet any of the requirements of this Chapter.

- B. At any time if it comes to the attention of the Town Clerk or Town Board that any of the provisions of this Chapter have been violated or in the event of fraud, misrepresentation or false statement in the application for the permit, the permit may be revoked. Notice of such intended revocation

shall be made by first-class mail to the permittee at the address provided on the original application, and such revocation shall be effective on the date provided in such notice, but no less than five (5) days from the date of the letter. The permittee may request reconsideration of the decision by the Town Board, provided that the request for reconsideration is made within ten (10) days of the effective date of revocation. The decision of the Town Board shall be final, although such revocation shall be no bar to a new application for a permit. A request for reconsideration shall not operate as a stay of the revocation of the permit, except by a vote of a majority of the Town Board.

Section 157-8. Prohibited solicitation.

A. Solicitation is prohibited under the following conditions:

- 1) Any residence or business with a “No Solicitation” or similar sign.**
- 2) Between the hours of thirty (30) minutes past sunset to 8:00 a.m.**
- 3) Locations including bus stops, public transportation vehicles or facilities, public parking lots or parking structures, and outdoor dining areas.**

B. The following are abusive solicitation:

- 1) **Coming within three (3) feet, or touching person solicited.**
- 2) **Blocking or impeding the passage of person solicited.**
- 3) **Continuing solicitation after person solicited has objected to solicitation.**
- 4) **Following person solicited after person has objected to solicitation.**
- 5) **Threatening or using offensive words.**
- 6) **Uninvited entry into a residence or business.**

Section 157-9. Penalties for offenses.

Any person who shall engage in peddling without a valid permit or in violation of any of the provisions of this Chapter shall be fined not more than \$250.00 for each violation and/or fifteen (15) days imprisonment. Each sale made in violation of these provisions shall be deemed to be a separate violation.

SECTION 3. EFFECTIVE DATE

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