

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET, ALBANY, NY 12231

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(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 WATKINS GLEN, NEW YORK

Local Law No. 2, of the Year 2004

A Local Law regulating peddling and soliciting in the Village of Watkins Glen and replacing Ordinance No. 149 of 1962

Be it enacted by the Board of Trustees of the

Village of Watkins Glen as follows:

## PEDDLING AND SOLICITING

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Section 1. Title.

This law shall be entitled "Peddlers and Solicitors Law".

§2. Legislative Purpose.

The purpose of this local law shall be to preserve the public peace and good order in the Village of Watkins Glen; to prevent unethical and dishonest business practices; to prevent traffic congestion and promote public safety; and to contribute to the public welfare and good order by enforcing certain regulations and restrictions on outdoor peddling and solicitation.

§3. Definitions.

For the purposes of this local law, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

PEDDLE – To sell or to offer for sale for immediate delivery, any goods, including but not limited to food, wares, merchandise or provisions within the Village of Watkins Glen, other than from an indoor fixed place of business, by operating from a stationary place, or by going from house to house, from store to store, from place to place or from street to street.

PERSON – Only a natural person or an individual, whether a resident of the Village of Watkins Glen or not.

COMPANY – Any association of individuals, partnership, firm, corporation, society or any other organization.

SOLICIT – To sell or offer for sale for future delivery, any goods, including but not limited to food, wares, or other merchandise, or for services to be performed, or to distribute advertising circulars, at any place within the Village of Watkins Glen, other than from an indoor fixed place of business, by operating from a stationary place, or by going from house to house, from store to store, from place to place or from street to street.

§ 4. License required.

It shall be unlawful for any person to peddle or solicit within the Village of Watkins Glen without having first obtained a valid license therefor as provided herein.

§ 5. Application for license.

A. Applicants for permit and license under this local law must file with the Village Clerk a sworn application, in writing, in duplicate, on a form to be furnished by the Village Clerk, which shall give the following information:

(1) The name and address of the applicant. If the applicant is a company, the

name, address and title of an officer of the company responsible for the peddling or soliciting or, if there be no such officer, then the person responsible for the peddling or soliciting.

- (2) The address at which process or other legal notice may be served, if different from (1) above.
  - (3) A brief description of the nature of the business and the goods to be peddled or solicited, or of the services to be performed, and in the case of products of the farm or orchard, whether produced or grown by the applicant.
  - (4) The date(s), time(s) and place(s) when and where peddling or solicitation shall take place.
  - (5) If a vehicle is to be used in the peddling or solicitation, the name and address of the owner, proof of valid registration, a description of the same, together with the license number, and proof of liability insurance.
  - (6) A statement of whether the applicant is a citizen of the United States of America, and if not, the country of which the applicant is a citizen.
  - (7) A photograph of the applicant, taken, within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two by two (2 x 2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
  - (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance or law, the nature of the offense and the punishment or penalty assessed therefor.
  - (9) If the applicant uses scales or measures in the business, there shall be filed with the application a current, valid certificate issued by Schuyler County that the scales or measures have been tested and sealed.
  - (10) Any approval required by any other law, rule, or regulation applicable to the goods or services peddled or solicited shall be filed with the application.
- B. At the time of filing the application, a fee of twenty-five dollars (\$25), or such other amount as may be established by resolution of the Board of Trustees, shall be paid to the Village Clerk to cover the cost of the investigation.

§ 6. Investigation; approval or denial of license.

- A. Upon receipt of an application, the original shall be referred to the Chief of Police, who shall cause such investigation to be made as he or she deems necessary to the protection of the public good, including a check of the applicant's record of convictions of criminal law and municipal ordinances.
- B. Within five (5) business days from receipt of the application, the Chief of Police

shall return to the Village Clerk a written recommendation as to whether or not a license should be issued to the applicant, and, if the recommendation is that the license should not be issued to the applicant, the reason(s) therefor.

- C. The Village Clerk shall grant or deny the license application within ten (10) days after the Chief of Police's recommendation has been filed with the Village Clerk. In the event that the application is denied, the Village Clerk shall notify the applicant that no license will be issued. No applicant to whom a license has been refused shall make further application until a period of at least six months has elapsed since the last previous rejection.
- D. Upon the granting of a license application, and payment of the prescribed fee, the Village Clerk shall issue a license to the applicant in a form as approved by the Village Clerk.

§ 7. License fees.

Fees for issuance of a license, pursuant to this local law, shall be established by resolution of the Village Board. The fees herein provided shall be assessed on a calendar year basis, and for licenses issued on or after July 15, the amount of the fee for such license shall be only half the annual fee for the remainder of the year. There shall otherwise be no reduction in fees for fractional parts of years.

§ 8. Possession and display of license.

Every peddler or solicitor licensed under this local law shall have his or her license in his or her immediate possession at all times when peddling or soliciting and shall display the same upon demand of any person.

§ 9. Transfer of license; duplicates.

A license issued under this local law shall be personal to the licensee and any assignment or transfer thereof shall be absolutely void. Upon satisfactory proof by affidavit of the loss or destruction of any license issued as herein provided, the Village Clerk shall issue a duplicate license for the one so lost or destroyed, in which event the word "duplicate" shall be legibly written in ink or stamped across the face thereof.

§ 10. Location in street.

No peddler or solicitor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operation might impede or inconvenience the public. For the purpose of this local law the judgment of any police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

§ 11. Prohibited acts; exceptions.

- A. Hours. It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after one-half (½) hour before sunset of any day, or after the hour of 9:00 p.m. on any date except upon the invitation of the householder or occupant.
- B. Signs. It shall be unlawful for any peddler or solicitor in plying his or her trade to ring the bell or of knock upon or enter any building where there is painted or otherwise affixed or displayed to public view a sign containing any or all of the following words: "No peddlers," "No solicitors," "No agents" or other wording, the purpose of which is to prohibit peddling or soliciting on the premises.
- C. Schools, churches and public buildings. No peddler or solicitor shall peddle, vend or sell his or her goods or wares within two hundred (200) feet of any place occupied exclusively as a public or private school, place of worship or any public building, nor permit his or her cart, wagon or vehicle to stand on any public highway within said distance of such school property or place of worship or public building.
- D. Festivals. It shall be unlawful for any peddler or solicitor to peddle or solicit during the time of any general festival to be held in the Village of Watkins Glen in an area of said Village so designated, without first obtaining a permit through the festival organizers in accordance with such organizer' permit process.
- E. Entering upon private property without prior permission.
  - (1) Notwithstanding any other provision in this local law, no person shall enter upon any private residential property in the Village of Watkins Glen for the purpose of vending, peddling or soliciting an order for any merchandise, device, work, services, book, periodical or printed matter whatsoever, nor for the purpose of soliciting alms or a subscription or a contribution to any church, charitable or public institution, nor for the purpose of distributing any handbill, pamphlet, tract, notice or advertising matter, nor for the purpose of selling or distribution any ticket or chance whatsoever, without the consent of the occupant of said premises previously given.
  - (2) Exception. This subsection shall not be construed to apply to any person who has been a bona fide resident of the Village of Watkins Glen for a period of at least six (6) consecutive months last past, nor to any person who has maintained an established place of business in the Village of Watkins Glen for a period of at least six (6) consecutive months prior thereto, or his or her duly authorized representative.

§ 12. Enforcement.

It shall be the duty of any police officer of the Village of Watkins Glen to require any person seen peddling or soliciting and who is not known by such officer to be duly licensed, to produce his or her peddler's license, and to enforce the provisions of this local law against any person found to

be violating the same.

§ 13. Exemptions.

- A. Nothing in this local law shall be held to apply to:
- (1) Any sales conducted pursuant to statute or by order of any court.
  - (2) School, religious, charitable or veteran organizations.
  - (3) The distribution of newspapers classified as second-class postal matters or to the delivery of milk.
  - (4) The peddling of fish, fruit or farm produce by persons who produce such commodities. This exemption shall apply only to natural persons and shall not be construed to include farmers or other persons who buy goods or resale as well as sell their own produce, or to any helper or employee of such person.
  - (5) Any person selling personal property at wholesale to dealers in such articles.
  - (6) Persons under the age of 18 years.
  - (7) An honorably discharged soldier, sailor or marine who has procured a license as provided by the General Business Law of the State of New York.
  - (8) Peddling or soliciting in connection with a general festival to be held in the Village of Watkins Glen and which has been approved by the Village Board.
- B. This local law shall also not apply so as to unlawfully interfere with interstate commerce.
- C. Those who shall be exempt from the terms of this local law shall, nevertheless, register with the Village Clerk/Treasurer at least 24 hours prior to doing any of the acts for which a license is required under this local law and shall receive from said Clerk/Treasurer a license indicating that he/she has so registered.

§ 14. Revocation of license.

- A. Permits and licenses issued under the provisions of this local law may be revoked by the Board of Trustees of the Village of Watkins Glen after notice and hearing for any of the following causes:
- (1) Fraud, misrepresentation or false statement contained in the application for license.
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on his or her business as peddler or solicitor.
  - (3) Any violation of this local law.
  - (4) Conviction of any crime or misdemeanor involving moral turpitude.

- (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 public.
- B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her address at which process or other legal notices may be sent as provided in the application or by written notice of change of address subsequently received by the Village Clerk, at least five (5) days prior to the date set for hearing.
- C. No person who has a license which has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last previous revocation.

§ 15. Appeals.

Any person aggrieved by the action of the Police Department or the Village Clerk in the denial of an application for a license as provided in §4 of this local law shall have the right to appeal to the Village Board of the Village of Watkins Glen. Such appeal shall be taken by filing, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Village Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at this or her last known address at least five (5) days prior to the date set for the hearing. The decision and order of the Village Board on such appeal shall be final and conclusive.

§ 16. Report of violation; records.

The Chief of Police shall report to the Village Clerk all convictions for violation of this local law, and the Village Clerk shall maintain a record for each license issued and record the reports of violations therein.

§ 17. Expiration of licenses.

All annual licenses issued under the provisions of this local law shall expire on the 31<sup>st</sup> day of December in the year issued. Other than annual licenses shall expire on the date specified in the license.

§ 18. Penalties for offenses.

Any person violating any provision of this local law shall be guilty of a violation and subject to a maximum fine of two hundred fifty dollars (\$250) or imprisonment for not more than fifteen (15) days, or both.

§ 19. Validity.

If any provision of this law, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not effect, impair or invalidate the remainder of this law, but shall be confined in its operation to the provision, person, or circumstance directly involved in the controversy in which the judgment shall have been rendered.

§ 20. Repeal of prior and conflicting ordinance.

Ordinance No. 149 of the Village of Watkins Glen, as amended, an ordinance entitled "Regulations Pertaining to Peddlers" is hereby repealed.

§ 21. Effective date.

This local law shall become effective on the twentieth (20<sup>th</sup>) day after it is adopted and upon completion of filing with the Secretary of State, pursuant to Municipal Home Rule Law Sec. 27



(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20..04. of the (County)(City)(Town)(Village) of Watkins Glen was duly passed by the Board of Trustees on December, 2004, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20..... of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20... , and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20...., in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20..... of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20.... , and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20.... . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20... , in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20..... of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20.... , and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20.... . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20.... , in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph-----1-----, above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

Donna J. Beardsley, Village Clerk

(Seal)

Date: \_\_\_\_\_

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF SCHUYLER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature David H. Ealy

Village Attorney  
Title

~~County~~  
~~City~~ of Watkins Glen  
~~Town~~  
Village

Date: \_\_\_\_\_