

Local Law #2 of 2017 (held over from July 2017)

RESOLUTION OF THE VILLAGE OF NYACK BOARD OF TRUSTEES

STATE OF NEW YORK
COUNTY OF ROCKLAND: VILLAGE OF NYACK
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In the Matter of the amendment to Chapter 254, Article I
of the Code of the Village of Nyack as pertains to
License procedures for Hawkers and Peddlers

RESOLUTION

-----X

WHEREAS, the Village Board of the Village of Nyack has noticed a Public Hearing with regard to a proposed amendment to the licensing procedures for Hawkers and Peddlers within the Village of Nyack.

WHEREAS, a Public Hearing on the adoption of the proposed amendment to the licensing procedures were held at a regularly scheduled meetings of the Board of Trustees on July 13, 2017 and September 14, 2017,

WHEREAS, at least 10 days prior to the initial Public Hearing notification of same was published in the Rockland County Journal News;

WHEREAS, the Village Board of Trustees had made and published initial SEQRA review of the proposed amendments and found as follows:

1. That the proposed Village Code amendment was subject to SEQRA (NYCRR §617.6[a]

[1][i]) as an “Action”.

2. That the proposed Village Code amendment did not involve a Federal agency (NYCRR §617.6[a][1][ii]).
3. That the proposed Village Code amendment did not involve one or more other agencies (NYCRR §617.6[a][1][iii]); since an “Involved Agency” is defined by NYCRR §617.2[s] as an agency that has jurisdiction by law to fund, approve or directly undertake an action.
4. That the proposed Zoning Code amendment had a preliminary classification as a “Type II” action under SEQRA under NYCRR 617.5(27), since the change in licensing procedures for Hawkers and Peddlers within the Village of Nyack merely constituted the amendment of regulations unrelated to the environment by local legislative decision.
5. That it was the intention of the Village Board of Trustees to establish itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA);

THEREFORE BE IT RESOLVED, that the Village Board of Trustees hereby establishes itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA), and makes the following finding under NYCRR §617.7[c] with respect to the impact of the of the proposed amendment to

the Village Code on the environment:

- 1) That this action shall not have any significant impact upon the environment as it only relates to licensing of Hawkers and Peddlers.

- 2) That the Nyack Village Board designates the Village Code amendment under consideration a Type II Action under SEQRA which requires no further action under the SEQRA regulations (see NYCRR 617.5(27)).

BE IT FURTHER RESOLVED, the Village the Board of Trustees approves the amendments to Village Code section 254, Article I as proposed.

This resolution was adopted by a unanimous resolution of the Board of Trustees at the regular meeting of the Board on September 14, 2017.

Local Law #2 of 2017 (held over from July 13, 2017)

A local law to amend Chapter 254 of the Code of the Village of Nyack, entitled “Peddling and Soliciting”, specifically Article I, entitled “Hawkers and Peddlers”, as pertains to license procedure for Hawkers and Peddlers within the Village of Nyack.

Village Code Chapter 254, Article I, shall be amended as follows:

[new text in italics]

Chapter 254. Peddling and Soliciting

Article I. Hawkers and Peddlers

§ 254-1. Short title.

This article shall be known and may be cited as the "Hawking and Peddling Ordinance."

§ 254-2. Purpose.

This article is enacted for the purpose of regulating itinerant merchandising in order that the peace, health, safety, welfare and good order in the Village and its inhabitants shall not be endangered or unduly disturbed.

§ 254-3. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A permanent building, store or depository in which or where the person transacts business and deals in the goods, wares or commodities he hawks or peddles in the ordinary and regular course of business.

HAWKER AND PEDDLER

Shall be deemed to include, unless otherwise herein provided, any person who engages in merchandising 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 therefor.

MERCHANDISING

Refers to the selling, bartering or trading, or offering to sell, barter or trade any goods, wares, commodities or services.

PERSON

Shall be deemed to include any individual, firm, partnership, corporation, unincorporated association, and principal or agent thereof.

TEMPORARY OCCUPANCY

A store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to hawk or peddle the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this article the intent of the defendant to conduct an established place of business shall be a material fact and the burden of proving such intent shall be upon the defendant in such prosecution.

§ 254-4. Unlawful to hawk or peddle without license.

Merchandising any goods, wares, commodities or service within the Village of Nyack without first having obtained a license therefor from the Clerk of the Village is hereby prohibited, unless such merchandise is at the personal request of the person solicited.

§ 254-5. Exemptions from license.

The provisions of this article shall not apply to the following:

A.

An honorably discharged soldier, sailor or marine, who is crippled as a result of injuries received while in the naval or military services of the United States.

B.

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

C.

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

D.

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

E.

A child regularly attending any public or parochial or private school located within the Village of Nyack or a representative of any established church maintaining a place of worship within the Village, or a member of a veteran's organization, provided that such organization has and maintains a chapter, post lodge, camp or other group within the Village of Nyack, or a member of a fraternal organization or civic group provided that such fraternal organization or civic group maintains a chapter or local organization within the Village of Nyack, and further provided that any person coming within the provisions of this exemption shall only hawk or peddle in

connection with an authorized activity of the organization of which they are a member or the school which they attend.

F.

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

G.

This article shall not apply to the sale of daily newspapers, nor shall it be interpreted as intending to, nor shall it be construed to unlawfully interfere with the conduct of interstate commerce or the impairment of rights of free speech, press or publication.

I.

Any person who is operating a food and/or beverage concession on Village owned lands, or within a Village owned park, playground or parklands under a subsisting license agreement or contract with the Village.

J.

Any person who is operating at an event licensed by the Nyack Village Board.

§ 254-6. Application for license.

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

A.

Name of applicant.

B.

Permanent home residence.

C.

Name and address of firm represented, 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.

F.

The number of arrests or convictions for crimes and the nature thereof.

G.

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

H.

Every applicant for a hawking and peddling license issued pursuant to this article shall submit a photograph two inches by two inches taken within 30 days of the date of the application for such license. Such photograph shall show head, full face and shoulders of applicant and shall be submitted in triplicate. One copy of the photograph shall be attached to the license application, one copy of the photograph to the license and the third shall be delivered to the *Village Clerk* of the Village of Nyack.

I.

Each applicant for a hawking and peddling license shall have a fingerprint impression of the fingers and thumbs on both hands taken by the Police Department of the Town of Orangetown, 26 Orangeburg Road, Orangeburg, NY 10962, in accord with the policies adopted by the Town of Orangetown regarding noncriminal fingerprinting, and the photograph delivered to the Village Clerk shall be attached to the fingerprint identification card and remain on file in the Village of Nyack Clerk's office. The Village Clerk shall not issue a permit unless and until the applicant furnishes satisfactory proof of compliance with the provisions of this fingerprint identification provision.

§ 254-7. Granting of license.

A. Upon receipt of the application and of the license fee and if reasonably satisfied with the applicant's qualifications, the Village Clerk shall issue a license to the applicant, specifying the particular business authorized and the location wherein it may be conducted.

B. A license shall only be valid until December 31st of the calendar year in which it is issued.

C. A license shall be nontransferable, including but not limited to any employees or agents of the licensee (each employee or agent of a licensee shall be required to obtain a separate license), and each licensee shall be in the continuous possession of the licensee while engaged in the business licensed.

D. The license shall be produced upon the demand of any Orangetown Police Officer, Village official or prospective buyer.

E. Nothing contained in this chapter, as same may be amended from time to time, shall permit hawking and peddling where otherwise prohibited by any federal, state, county or Town law, ordinance, regulation statute.

§ 254-8. Recording of license.

A.

The Village Clerk shall keep a record of the applications, the determinations thereon and of all licenses issued in accordance with this article. 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 year from the date of issuance, except that a license issued for a shorter period than one year shall expire at the expiration of the period for which it is issued.

§ 254-9. Schedule of fees.

The license fees for all licenses issued hereunder are hereby fixed as follows: \$150 per year or \$25 per day or a fraction thereof.

§ 254-10. Restrictions.

A licensed hawker or peddler shall:

A.

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

B.

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

C.

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

D.

Not frequent any street in an exclusive nature so as to cause a private or public nuisance.

E.

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

F.

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

G.

Not stand or permit the vehicle, structure or tent and/or apparatus used by him/her to stand in one place for more than 10 minutes in front of any private premises without permission of the owner or the lessee of the ground or in any public place or street. Notwithstanding the foregoing, the peddler or solicitor may remain longer than 10 minutes, but only if the peddler or solicitor has received prior approval from the Board of Trustees, at a public hearing, to remain for a longer period and subject to any conditions the Board of Trustees may impose. The Board will consider

requests for permission to stand in one public location for said longer periods of time, but solely on a case-by-case basis and at a public hearing, provided that the applicant's presence enhances the public welfare and community. Such approval may be revoked at any time by the Board of Trustees, without further notice or hearing. *This subsection shall not apply to the sale of prepared foods and/or the sale of beverages by vendors licensed by the County of Rockland pursuant to Article 4 of the General Business Law of the State of New York, and otherwise licensed, as may be required, by the Rockland County Department of Health.*

H.

Not sell confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

I.

Not hawk, peddle or otherwise solicit between the hours of 8:00 pm and 9:00 am unless specifically licensed to do so by the Village Board.

J.

Not conduct himself or herself in such a manner likely to unreasonably annoy, alarm or harass an occupant of any house, or a participant in any parade or procession taking place within the Village of Nyack.

§ 254-11. Revocation of license.

A license may be summarily revoked by the Village Clerk by reason of a violation of the terms of the license, the violation of any municipal ordinance or state or federal statute, or falsification in applying for a license. Written notice 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 Village Clerk's office, with affidavit of service by mailing, such license shall be revoked, and a hearing upon the revocation of the license shall be granted the licensee if said licensee shall request such a hearing as hereinafter provided.

§ 254-12. Special provisions; magazine sales.

A.

No person hawking, peddling or soliciting the sale of magazines or other periodicals shall visit a private residence for the purpose of hawking, peddling or soliciting except after procuring a license hereunder, unless such person has been personally invited to such private residence by the owner or occupant thereof.

B.

The license issued to a person hawking, peddling or soliciting the sale of magazines or other periodicals shall, in addition to the other requirements hereby imposed, have the photograph of

the licensee affixed thereto and to the application. Such photograph shall have been taken within 30 days next preceding the application for such license.

C.

Before a license issued to a person for the purpose of hawking, peddling or soliciting the sale of magazines or other periodicals shall be valid, it shall be countersigned by the Chief of Police of the *Town of Orangetown*. Prior to countersigning such license, said Chief of Police shall require that the applicant's employer file with the *Town of Orangetown* Police Department a duplicate photograph of the applicant taken at the same time as the photograph annexed to the license application and license, and in addition thereto a statement as to the character of the applicant verified by the employer.

D.

The Chief of Police of the *Town of Orangetown* is hereby empowered to refuse to countersign any license issued pursuant to the provisions of this section if in his opinion the applicant's character does not justify the issuance thereof or that the issuance of a license to the applicant would not be in the interest of the peace, health, safety, welfare and good order of the Village and its inhabitants.

§ 254-13. Review.

In the event of the revocation of license pursuant to the provisions of § **254-11** hereof, or in the event of the denial of a license to any applicant by the Clerk or the refusal of the Chief of Police to countersign a license, the applicant may request a hearing within a period of 30 days after such revocation, refusal and denial. Such request shall be in writing and shall be made to the Village Board of the Village of Nyack and filed with the Village Clerk within the period provided herein. The Village Board shall hear such applicant's request for a review of the determination of the Village Clerk or the Chief of Police at the next regularly scheduled meeting of the said Village Board following the filing of the application for review with the Village Clerk. The Village Board may grant a license to the applicant if it should determine that the refusal on the part of the Clerk or the Chief of Police was arbitrary or otherwise in error. If the Village Board after such hearing shall determine that the decision of the Village Clerk or Chief of Police was not arbitrary and was justified under the circumstances, the Board shall refuse such license. The decision on any hearing shall be rendered by the Village Board in writing within 45 days after the hearing thereof and shall be entered in the minutes of the Village Board.

§ 254-14. Penalties for offenses.

Any person who shall act as a hawker or peddler as herein defined, without a license, or who shall violate any of the provisions of this article, or who shall continue to act as hawker or peddler subsequent to the revocation of his license, *shall be subject to a penalty as follows:*

A. For a first offense, a fine of not less than \$500 and not more than \$1500;

B. For a second offense within 24 months, as measured from occurrence to occurrence, a fine of not less than \$1500 and not more than \$3,500;

C. For a third, or more, offense within 24 months, as measured from occurrence to occurrence, a fine of not less than \$3,500 and not more than \$10,000, or by imprisonment not to exceed 30 days, or both.

§ 254-15. Severability.

If any portion of this ordinance shall be declared invalid for any reason, the remainder thereof shall not by that reason be deemed invalid and shall continue in full force and effect.

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

Local Law #3 of 2017 (held over from July 2017)

RESOLUTION OF THE VILLAGE OF NYACK BOARD OF TRUSTEES

STATE OF NEW YORK
COUNTY OF ROCKLAND: VILLAGE OF NYACK

-----X

In the Matter of the amendment to Chapter 249
of the Code of the Village of Nyack as pertains to
public conduct at special events in the Village of Nyack

RESOLUTION

-----X

WHEREAS, the Village Board of the Village of Nyack has noticed a Public Hearing with regard to a proposed amendment to the Village Code regulations governing public conduct within the Village of Nyack.

WHEREAS, a Public Hearing on the adoption of the proposed amendment to the public conduct regulations were held at a regularly scheduled meetings of the Board of Trustees held on July 13, 2017 and September 14, 2017,

WHEREAS, at least 10 days prior to the initial Public Hearing notification of same was published in the Rockland County Journal News;

WHEREAS, the Village Board of Trustees had made and published initial SEQRA review of the proposed amendments and found as follows:

5. That the proposed Village Code amendment was subject to SEQRA (NYCRR §617.6[a]

[1][i]) as an “Action”.

6. That the proposed Village Code amendment did not involve a Federal agency (NYCRR §617.6[a][1][ii]).
7. That the proposed Village Code amendment did not involve one or more other agencies (NYCRR §617.6[a][1][iii]); since an “Involved Agency” is defined by NYCRR §617.2[s] as an agency that has jurisdiction by law to fund, approve or directly undertake an action.
8. That the proposed Zoning Code amendment had a preliminary classification as a “Type II” action under SEQRA under NYCRR 617.5(27), since the change in the regulations governing public conduct at events held within the Village of Nyack merely constituted the amendment of regulations unrelated to the environment by local legislative decision.
5. That it was the intention of the Village Board of Trustees to establish itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA);

THEREFORE BE IT RESOLVED, that the Village Board of Trustees hereby establishes itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA), and makes the following finding under NYCRR §617.7[c] with respect to the impact of the of the proposed amendment to

the Village Code on the environment:

- 1) That this action shall not have any significant impact upon the environment as it only relates to regulations relating to public conduct at special events held in the Village of Nyack.

- 2) That the Nyack Village Board designates the Village Code amendment under consideration a Type II Action under SEQRA which requires no further action under the SEQRA regulations (see NYCRR 617.5(27)).

BE IT FURTHER RESOLVED, the Village the Board of Trustees approves the amendments to Village Code Chapter 249, as proposed.

This resolution was adopted by a unanimous resolution of the Board of Trustees at the regular meeting of the Board on September 14, 2017.

Local Law #4 of 2017

A local law to amend Chapter 140 of the Code of the Village of Nyack, entitled “Building Construction”, specifically § 140-15, entitled “Building permit, building construction and other associated fees”, as pertains to the calculation of building permit fees for construction within the Village of Nyack.

Village Code § 140-15 shall be amended as follows:

[new text in italics]

§ 140-15 **Building permit, building construction and other associated fees.**

A.

1. *Every application for a building permit shall be accompanied by the payment of a building permit fee based upon the cost of construction.*
2. ***For any applications where the estimated construction costs exceed \$4,000,000, the applicant may pay 25% of the total Building Permit fee at the time of application. The balance of the Building Permit fee shall be paid prior to the issuance of a Building Permit.***
3. ***In the event an application for a Building Permit is withdrawn after the application fees have been paid, the applicant shall be entitled to a refund of the application fee, less 10% or \$100, whichever is greater, as a processing fee.***
4. (i). *The cost of construction shall be the sum of all costs, direct and indirect, inherent in converting a design plan to a finished project, including all expenses incurred by a contractor for labor, material, equipment, financing, services, utilities, etc., plus overheads and contractor's profit (costs of land, architectural design, consultant and engineer fees shall not be considered construction costs).*
- (ii). ***The cost of construction to be utilized for the purpose of calculating a building permit fee due hereunder shall be \$175 per square foot for interior renovations, and \$250 per square foot for additions up or out.***
5. *Building permit fees shall be determined based on the cost of construction set forth in this paragraph, as follows:*

<u>Cost of Construction</u>	<u>Fee</u>
First \$1,000	\$175
Each additional \$1,000 up to \$1,000,000	\$17
Each additional \$1,000 over \$1,000,000	\$13

. . .

This Local Law shall be effective immediately upon filing with the Secretary of State.

Local Law #5 of 2017 (held over from August 2017)

RESOLUTION OF THE VILLAGE OF NYACK BOARD OF TRUSTEES

STATE OF NEW YORK
COUNTY OF ROCKLAND: VILLAGE OF NYACK

-----X

In the Matter of the amendment to Chapter 79-3
of the Code of the Village of Nyack as pertains to
Residency requirements for the Village Treasurer
and Deputy Treasurer

RESOLUTION

-----X

WHEREAS, the Village Board of the Village of Nyack has noticed a Public Hearing with regard to a proposed amendment to the Code regarding the residency requirements for the Village Treasurer and Deputy Village Treasurer.

WHEREAS, a Public Hearing on the adoption of the proposed amendments to the residency requirements was held at a regularly scheduled meeting of the Board of Trustees held on September 14, 2017,

WHEREAS, at least 10 days prior to the initial Public Hearing notification of same was published in the Rockland County Journal News;

WHEREAS, the Village Board of Trustees had made and published initial SEQRA review of the proposed amendments and found as follows:

9. That the proposed Village Code amendment was subject to SEQRA (NYCRR §617.6[a][1][i]) as an “Action”.
10. That the proposed Village Code amendment did not involve a Federal agency (NYCRR §617.6[a][1][ii]).
11. That the proposed Village Code amendment did not involve one or more other agencies (NYCRR §617.6[a][1][iii]); since an “Involved Agency” is defined by NYCRR §617.2[s] as an agency that has jurisdiction by law to fund, approve or directly undertake an action.
12. That the proposed Zoning Code amendment had a preliminary classification as a “Type II” action under SEQRA under NYCRR 617.5(27), since the change in residency requirements for the Village Treasurer merely constituted the amendment of regulations unrelated to the environment by local legislative decision.
5. That it was the intention of the Village Board of Trustees to establish itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA);

THEREFORE BE IT RESOLVED, that the Village Board of Trustees hereby establishes itself as the Lead Agency for the purpose of review of the proposed action under the provisions of the State Environmental Quality Review Act (SEQRA), and makes the following

finding under NYCRR §617.7[c] with respect to the impact of the of the proposed amendment to the Village Code on the environment:

- 1) That this action shall not have any significant impact upon the environment as it only relates to residency requirements for Village employees.

- 2) That the Nyack Village Board designates the Village Code amendment under consideration a Type II Action under SEQRA which requires no further action under the SEQRA regulations (see NYCRR 617.5(27)).

BE IT FURTHER RESOLVED, the Village the Board of Trustees approves the amendments to Village Code section 79-3 as proposed.

This resolution was adopted by a unanimous resolution of the Board of Trustees at the regular meeting of the Board on September 14, 2017.

