

LOCAL LAW NO. 3 OF 2011

- I. Sections 116-1 through and including 116-5 of Chapter 116 of the Code of the City of Oneida are hereby denominated as Article I of Chapter 116 and are amended to read as follows:

ARTICLE I

General Regulations for Peddlers and Solicitors

§ 116-1. Definitions.

As used in this Chapter, the following terms shall have the meanings respectively ascribed to them in this section:

ESTABLISHED PLACE OF BUSINESS – A building permanently affixed to a parcel of land within the City of Oneida in which, or from where a person or business entity lawfully transacts business involving the retail sale of goods, including related services, including food and food services, directly to customers at or from that location.

PEDDLER – Any person, either principal, employee or agent, who does not have an established place of business, or whose principal or employer does not have an established place of business, and who sells, barter, or offers for sale or barter, or who carries or exposes for sale or barter any goods, wares or merchandise, including related services, and including food and related food services, on foot or from any vehicle from, or in, any public street or public place.

SOLICITOR – Includes any person who goes upon private property from place or house to house without the prior invitation of the owner or occupant(s) of the premises, taking or offering to take orders for goods, wares, or merchandise, or for goods to be delivered or services to be performed in the future.

MOBILE FOOD VENDOR – A Peddler who sells or offers for sale, from a vehicle, pushcart or stand, ready to eat food and/or beverage items, prepackaged, pre-prepared, or prepared on location.

VEHICLE -- A vehicle as defined by the New York State Vehicle and Traffic Law.

PUSHCART – Any wheeled device used by a mobile food vendor, not otherwise constituting a vehicle, which may be moved or propelled either by mechanical or human power.

STAND – A moveable, portable or collapsible structure, framework, device, container or other contrivance used by a mobile food vendor other than a pushcart or vehicle.

§ 116-2. Applicability; exemptions.

A. Nothing in this Chapter shall apply:

- (1) To any sales conducted pursuant to statute or by order of any court.
- (2) To any person selling personal property at wholesale solely to dealers in such goods.
- (3) To businesses having an established place of business as defined in this Chapter, or to farmers and truck gardeners who themselves or through their employees, sell products of their own farms and gardens located within the City.
- (4) To any honorably discharged member of the Armed Forces of the United States who has procured a license as provided by § 32 of the General Business Law of the State of New York.
- (5) To any public market authorized by the Common Council under such rules and regulations as it may provide for the operation and control of said market; or so as to interfere unlawfully with interstate commerce.
- (6) To any activities sponsored by and held for the benefit of any bona fide non-profit museum, fraternal, charitable, educational, or religious organization, including any not-for-profit corporation, downtown improvement committee or other bona fide civic organization, nor shall this Chapter apply to any vendors, including peddlers, assembled or brought together for a scheduled event sponsored or conducted by such organization, such as a block party, trade or product show, where part of the proceeds or fees from such vendors are paid to the benefit of such organization.

B. The burden of proving entitlement to exemption from the requirement of this Chapter shall be upon the person or entity claiming such exemption.

§ 116-3. Licensed required.

It shall be unlawful for any person, within the corporate limits of the City, to act as a peddler, solicitor or mobile food vendor, as defined in § 116-1, without first having in force and effect a license or permit therefor issued by the City Clerk as herein provided.

§ 116-4. Application.

Any person desiring to procure a license required by the provisions of this Chapter shall file with the City Clerk a written application upon a form prepared and furnished by the City Clerk. Such application form shall provide not less than the following information:

- a. the location(s) from which the applicant desires to operate and the number and description of all vehicle(s) to be used by the applicant, including DMV registration information and photographs of all such vehicles, pushcarts or stands;
- b. the kind of goods, wares or merchandise to be sold or the kind of service he or she desires to perform;
- c. the method of delivery or distribution of the goods and services to be sold;
- d. the name, address, age and photographs of the applicant and all employees, employees and representatives that will engage in the peddling and/or soliciting;
- e. the period of time for which the applicant desires the license;

- f. a signed release providing consent for the Oneida City Police Department to conduct a local background check on the applicant and all individuals identified as being associated with the peddling and/or soliciting activities; and
- g. such other information as may be required by the City Clerk.

§ 116-5. Issuance and fees.

- A. Upon the filing of a complete application and payment of the applicable application fees, as determined from time to time by resolution of the Common Council, and upon receipt of an approved local background check from the City Police Department, the City Clerk shall, upon the approval of such application, issue to the applicant a license.
- B. Upon the approval of a license to peddle or solicit at parades, block parties or similar events where the public is gathered in mass, an arm band shall be provided by the City Clerk to each authorized individual signifying his or her status as a licensed peddler or solicitor. It shall be unlawful for a vendor not to conspicuously display the arm band on his or her person during such event.

§ 116-6. Revocation of Permits and Penalties for Violations.

- A. Any permit or license issued under the provisions of this Chapter may be revoked upon determination of any one or more of the following conditions:
 - a. the making of any false or fraudulent statement by the applicant;
 - b. the suspension or revocation of an applicant's Health Department Permit or New York State Sales Tax Certificate of Authority;
 - c. the City's determination, upon three days prior notice to the Permit Holder or Licensee, that the Permit Holder or Licensee is in violation of any provision of this Chapter.
 - B. In addition to constituting grounds for revocation of a permit or license, any violation of any provision of this Chapter shall be an offense punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both such fine and imprisonment.
- II. There is hereby added to Chapter 116 of the Code of the City of Oneida a new Article II to read as follows:

ARTICLE II

Special Regulations for Mobile Food Vendors.

§ 116-7. Additional Regulations for Mobile Food Vendor Licenses.

All of the provisions of Article I of this Chapter shall apply to all mobile food vendors conducting business within the City, whether on a seasonal, weekly, or one time basis, in any public place. The following additional requirements shall also apply to mobile food vendors:

- a. All mobile food vendors must obtain a seasonal, weekly or one-time mobile food vendor's license. Such licenses will be issued by the City Clerk in accordance with the provisions of this Article and Chapter.
- b. Each mobile food vendor license shall state the specific location(s) from which the mobile food vendor shall be authorized to conduct business pursuant to such license. Each license shall be valid for a single location only.
- c. Locations available to licensed mobile food vendors shall be specifically designated from time to time by resolution of the Common Council following review and recommendation by the Chief of Police, the Director of Parks and Recreation and the City Engineer with respect to potential risk to public safety. In no event shall any such authorized location be less than twenty feet from a street intersection.
- d. All mobile food vendors shall state, in order of preference, their three preferred location(s) in their license application. In the event more than one prospective vendor desires the same location, the City Clerk shall give preference in the assignment of the permit locations to the applicant(s) who have held a mobile food vendor's license from the City for the most consecutive years prior to the year in question.
- e. Seasonal licenses shall be renewable annually and shall be valid from January 1st to December 31st of each calendar year. The City Clerk shall publish a notice in the City's official newspaper between November 1st and November 15th of the preceding calendar year stating that for seasonal mobile food vendor license applications shall be submitted to the City Clerk by the following 10th day of December, and shall be acted upon by the City Clerk in accordance with these regulations within three business days thereafter.
- f. Daily or weekly licenses may be issued only for locations not previously assigned to a seasonal licensee. In the event more than one application is received for the same location for the same day(s) or week(s), the City Clerk shall give preference in the assignment of the permit locations to the applicant(s) who have held a mobile food vendor's license from the City for the most consecutive years prior to the year in question.
- g. All mobile food vendors shall agree to defend and indemnify the City of Oneida from all claims, losses and liabilities the City may incur as a consequence of the operations of the mobile food vendor. In addition, each mobile food vendor must submit to the City Clerk proof of the following required insurance coverage: general liability insurance with personal injury coverage limits per occurrence of not less than \$300,000 naming the City of Oneida as additional insured, as well as worker's compensation and disability insurance as statutorily required under New York State Law.
- h. Prior to commencement of business activities under a mobile vendor's license, the applicant shall provide to the City Clerk proof of the issuance of a valid permit from the Madison County Health Department for such business operations and a valid New York State sales tax certificate.
- i. Upon the approval of a mobile food vendor's license, the City shall provide the licensee with a license document signifying his or her status as a licensed mobile food vendor. It shall be unlawful for a mobile food vendor to not

conspicuously display the license on his or her vehicle, pushcart or stand during business operations. Preservation of the integrity of the license document from the elements while displayed shall be the responsibility of the vendor.

- j. Food vendors shall provide suitable disposal receptacles for use by patrons and shall be responsible for all clean-up and removal of all debris and trash resulting from the operation of their individual sites.
- k. No food vendor shall place his vehicle, pushcart or stand on lawn areas of parks or other public places, or otherwise operate his or her business in such manner as to cause damage to any such green areas.
- l. Food vendors shall be responsible for the repair of any damage whatsoever to any public grounds or other public property caused by, or in association, with their business. The City shall have the right at any time and without prior notice to the license holder, to repair any such damage and invoice the license holder for all such costs. Failure to pay any such invoice within ten days shall be grounds for immediate revocation of the mobile food vendor's license.
- m. No alcoholic beverage may be sold or offered for sale by a mobile food vendor.
- n. Hours of operation shall be limited to one-half hour after sunrise to one-half hour before sunset.
- o. All mobile food vendor licenses shall be subject to the condition that all licensees agree to comply with the direction of any police officer, or any City employee or representative acting within the scope of his or her employment, directing the licensee to temporarily suspend or alter operations, or temporarily relocate to another location for such period of time as may be determined by the City in order to accommodate a parade, funeral or other activity of a community nature. Failure to obey any such directive shall be grounds for the immediate revocation of the license.

III. This local law shall take effect November 1, 2011.