

**Hamlin Public Hearing
June 10, 2013**

The Hamlin Town Board held a Public Hearing in the Hamlin Town Hall located at 1658 Lake Road, Hamlin, New York. The meeting was called to order at 6:30 PM by Supervisor Breslawski.

Present: Councilperson Jason Baxter, Councilperson Martin Maier, Councilperson David Rose, and Supervisor Thomas Breslawski

Excused: Councilperson Craig Goodrich

Also present: Attorney Ken Licht and Conservation Board Member Walt Fisher

PUBLIC HEARING RE: LOCAL LAW AMENDING CHAPTER 384

Supervisor Breslawski briefly explained the Public Hearing was to consider a local law amending Chapter 384 of the Code of the Town of Hamlin, which chapter is known as the "Peddling, Vending and Soliciting Ordinance of the Town of Hamlin." The purpose of this change is to modernize the existing code, including adding background checks of the Peddling, Vending and Soliciting to further protect the Town and its residents.

*A LOCAL LAW AMENDING CHAPTER 384 OF THE CODE OF THE TOWN
OF HAMLIN, WHICH CHAPTER IS KNOWN AS THE "PEDDLING, VENDING AND
SOLICITING ORDINANCE OF THE TOWN OF HAMLIN"*

Section 1: Section 384-5 of the Peddling, Vending and Soliciting Ordinance of the Town of Hamlin, entitled "Exemptions" is repealed and replaced as follows:

384-5 Exemptions, Certificate of Compliance for Exemptions:

A. Nothing in this chapter shall be held to apply to:

- (1) Any sales conducted pursuant to statute or by order of any court.*
- (2) Any person selling personal property at wholesale to dealers in such articles.*
- (3) The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.*
- (4) Any honorably discharged member of the armed forces who is physically disabled as a result of the injuries received while in the service of said armed forces and the holder of a license issued by the County Clerk as provided by Section 32 of the General Business Law of the State of New York, as amended or changed.*
- (5) Any person soliciting at the express invitation of the person solicited.*
- (6) Any person participating in a political campaign falling within the geographical jurisdiction of the Town of Hamlin.*

B. Exempt Organizations:

- (1) Nonprofit organizations. Nonprofit organizations and persons working for such organizations shall be exempt from the requirement of procuring a license. However, such organizations shall be subject to the application process and shall register annually by the application process with the building inspector in the event that they plan to engage in vending, hawking, peddling or soliciting and shall indicate the type of activities to be undertaken and the time when they will be performed. At the time of application, such organizations shall also offer proof of their nonprofit status as being organized under Section 501C(3) of the Internal Revenue Code of 1986 as amended, and that such organizations maintain a chapter or local organization within Monroe County. Proof should be submitted in the form of evidence of nonprofit filing from the Department of State in the state in which the organization has incorporated.*

- (2) *Children's, veteran and fraternal organizations. A child regularly attending any public school district or parochial or private school located, in whole or in part, within the Town of Hamlin, or a member of a veterans organization or fraternal organization, provided that such organization has and maintains a chapter, post, lodge, camp or other group within Monroe County, is exempt from the provisions of this chapter, provided that any person coming within the provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the organization of which he or she is a member or of the school which he or she attends.*
- (3) *Veterans. Any honorably discharged member of the armed forces who is a resident of this state and a veteran of any war, or who shall have served in the armed forces of the United States overseas, and the surviving spouse of any said veteran must comply with the application process but is exempt from payment of any license fee.*
- C. *Interstate commerce. This chapter shall not apply so as to unlawfully interfere with interstate commerce.*
- D. *Certificate of compliance for exemptions. When the applicant shall have established to the satisfaction of the building inspector that the applicant is entitled to one or more of the above exemptions, the building inspector shall issue to the applicant a certificate of compliance stating, among other things, that such applicant has complied with the requirements of this section. Such certificate shall be carried with the person exercising it and shall be exhibited upon demand. All certificates issued pursuant to this chapter shall be issued for a period not to exceed one year, nor a shorter term than three months, but in any event shall expire on the 31st day of December following the date of issuance. The securing of such certificate by fraud or misrepresentation by any person not in fact entitled to one or more exemption shall constitute a violation of this chapter.*

Section 2: *Section 384-6 of the Peddling, Vending and Soliciting Ordinance of the Town of Hamlin, entitled "Application for License", is repealed and replaced as follows:*

384-6 Application for License:

- A. *Any person desiring to procure a license as herein provided is required to file a written application upon a form furnished by the building inspector. Along with submission of the written application, the applicant must obtain a police background check of each person to be soliciting within the town. The police check must be made at the applicant's expense, must be obtained from the town or city where each solicitor resides and be personally provided to the building inspector's office. Such application shall be given to the building inspector at least two weeks in advance of the first day the applicant proposes to solicit and shall contain the following information:*
 - (1) *The vehicle identification number, copy of the vehicle registration, plate number, model and make of each vehicle to be used by the applicant in carrying on the business for which the license is desired.*
 - (2) *The kind of goods, wares and merchandise he or she desires to sell or the kind of service he or she desires to perform.*
 - (3) *The method of distribution.*
 - (4) *The name, permanent business address, business telephone number and age of the applicant.*
 - (5) *Whether or not the applicant and each solicitor associated therewith has been convicted of a misdemeanor or felony and, if so, give the date of conviction, the nature of the offense, the penalty imposed and the name and address of the court.*
 - (6) *A police background check of each person to be soliciting within the town. The police check must be made at the applicant's expense and must be obtained from the town or city where each solicitor resides.*
 - (7) *The name and address of the person, firm or corporation he or she represents.*
 - (8) *A written, detailed description of the specified proposed plan of operations to be used by the applicant.*
 - (9) *Any violation(s) of this chapter or any comparable laws, ordinances, statutes, rules, orders or regulations of any other municipality or of the New York State Door-to-Door Sales Protection Act*

(Personal Property Law §425 et seq.) within the past ten years, by the applicant or any individuals employed by or on behalf of the applicant as a vendor, solicitor or peddler.

(10) Such other information as may be required by the building inspector to determine the veracity or to clarify any of the prior statements required in this subsection.

Section 3: Section 384-7 of the Peddling, Vending and Soliciting Ordinance of the Town of Hamlin, entitled "Terms of License; issuance; denial; investigation" is repealed and replaced as follows:

384-7 Term of License; Issuance; Denial:

- A. Upon receipt of the application and the license fee and if reasonably satisfied with the applicant's qualifications, the building inspector shall issue a license to the applicant, specifying the particular business and method of business operations authorized. This license shall be nontransferable and shall be in continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any town official, prospective customer or police officer.*
- B. All licenses pursuant to this chapter shall be issued for a period of one year.*
- C. All licenses pursuant to this chapter shall be issued by the building inspector, who shall keep an accurate and permanent record of the name, address and occupation of the licensee and the date of issuance and expiration of the license.*
- D. A license may be refused if the applicant shall have been convicted of a misdemeanor or felony, which, in the judgment of the building inspector, renders the applicant unfit or undesirable to carry on the trade or occupation of peddler or solicitor. The building inspector may also refuse a license to any person who, in his or her judgment, shall be an undesirable person or incapable of properly conducting such occupation. Any applicant who has been refused a license by the building inspector may appeal to the town board therefor, and the same may be granted or refused by the town board, following a public hearing at which the applicant has the opportunity to be heard.*

Section 4: Section 384-10 of the Peddling, Vending and Soliciting Ordinance of the Town of Hamlin entitled "Revocation of License; Notice" is repealed and replaced as follows:

384-10 Revocation of License; Notice:

- A. Grounds for Revocation. The Hamlin Town Board, following a public hearing at which the licensee shall have the opportunity to be heard, may revoke a license if it determines the licensee is an undesirable person or incapable of properly conducting the trade previously licensed. Revocation may occur for the following reasons:*
 - (1) Fraud, misrepresentation or any false statement contained in the application for license.*
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business as peddler, vender or solicitor.*
 - (3) Any violation of this chapter.*
 - (4) Conviction of any felony or misdemeanor involving dishonesty or moral turpitude.*
 - (5) Conducting the licensed business in any 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. Appeals. Revocation of a license by the town board shall be subject to review pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York. Any such Article 78 proceeding must be commenced within thirty days of the mailing of notice of revocation.*
- C. No Refund. In the event a license is revoked, a licensee shall not be entitled to a refund of any portion of the fee.*

Section 5: This local law shall become effective upon filing with the Secretary of State.

PUBLIC QUESTIONS:

There were no questions.

DISCUSSION:

No one wished to speak.

PUBLIC HEARING ADJOURNED

Resolution # 236 Motion was made by Councilperson Rose, seconded by Councilperson Baxter, requesting Town Board resolution to adjourn the Public Hearing at 6:33 PM as all business was concluded. Polled Votes: Councilperson Baxter aye, Councilperson Maier aye, Councilperson Rose aye, Supervisor Breslawski aye. Motion carried.

Respectfully submitted,

Kathi A. Rickman, MMC
Hamlin Town Clerk