

## ORDINANCE 114

AN ORDINANCE GOVERNING, REGULATING ANF FIXING LICENSE FEES OF BUSINESSES, TRADES AND OCCUPATIONS IN THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ORDINANCE NOS. 9,14 AND 75 OF SAID VILLAGE.

Be It Ordained by the Board of Trustees of the Village of Loch Arbour, in the County of Monmouth and state of New Jersey, as follows:

### Section 1. Definitions

The following words and terms as used in this ordinance shall have the following meanings:

“Business” includes all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the Village of Loch Arbour.

“Insignia” is any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

“Premises” includes all land, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

“Fire and other altered goods sale” is a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

“Going –out-of-business sale” is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock and goods on hand, the business will cease and be discontinued, including but not limited to the following sales: adjustments; alterations; assignees; bankrupts; benefit of administrators; benefit of creditors; benefit of trustees; building coming down; closing; creditors’ committee; creditors; end; executors; final days; forced out; forced-out-of-business; insolvents; last days; lease expirations; liquidations; loss of lease; mortgage sales; receivers; trustees; quitting business.

“Removal of business sale” is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock and goods on hand and then move to and resume business at a new location within the Village of Loch Arbour or will then continue business from other existing locations in said Village.

“Cigarette vending machine” shall mean any automatic vending machine used for the sale of cigarettes, cigars, tobacco and /or matches and controlled by the insertion of a coin or coins.

“Vending machine” shall include any machine or device, whether automatic or not, controlled by the insertion of a coin or coins for the vending of service, food, liquids, confections, goods, wares, merchandise or articles of any type, kind or description.

“Transient merchant”, “Itinerant merchant” and “Itinerant vendor” shall mean any person, whether as owner, agent, servant, employee or consignee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the Village of Loch Arbour, and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public rooms in hotels, lodging houses, apartments, shops or any street, alley or other public place within the Village, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction.

“Peddler” shall mean any person, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, food, liquids, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance, or person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this ordinance. The term “peddler” shall include the words “hawker” and “huckster”.

“Canvasser” and “Solicitor” shall mean any person, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sales of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale, or whether or not such person is collecting advance payments on such sales. Further, these terms shall include any person who hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the Village of Loch Arbour for the sole purpose of exhibiting samples and taking orders for future delivery.

“Handbill distributor” shall mean and include any person engaged in distributing commercial handbills, other than newspapers distributed to subscribers thereof, for himself or any other person, upon any of the public and private streets, places and premises other than his own premise, in the Village of Loch Arbour. This section shall not prohibit sale and distribution of newspapers regularly published, through newsboys, newsmen or from news store premises in the Village of Loch Arbour or religious or political tracts.

“Commercial handbill” shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature:

- (a) which advertises for sale any merchandise, product, commodity or thing; or
- (b) which directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interests thereof by sales; or
- (c) which directs attention to or advertises any show, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; or
- (d) which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement and is distributed or circulated for advertising purposes or for private benefit and gain of any person so engaged as advertiser or distributor.

“Noncommercial handbill” shall mean and include any printed matter or written matter, any sample or device, dodger, circular, leaflet, pamphlet, magazine, paper, booklet, or any other printed or otherwise reproduced original, or copies of any letter or literature not included in the aforesaid definition, on a commercial handbill.

The foregoing definitions of “commercial handbill” and “noncommercial handbill” shall not include any newspaper of general circulation as defined by general law or any religious or political handbook, magazine, newspaper or periodical.

## Section 2. License Required

No person shall either directly or indirectly conduct any business as defined in this ordinance unless a license or permit therefore is first produced and kept in effect at all such times as required by this ordinance or any other law or ordinance of the Village

For the purposes of this ordinance, any person shall be deemed to be engaged in conducting a business and subject to the provisions of this ordinance when he does any or all of the following acts:

- (a) Sells any goods or services.
- (b) Solicits business or offers goods or services for sale or for hire.
- (c) Uses any vehicle, machine or device or any premises in the Village of Loch Arbour for business purposes.

## Section 3. Applications For License

Every person required to procure a license or permit under the provisions of this ordinance shall submit an application for such license or permit to the Village Clerk at the municipal offices of the Village of Loch Arbour, which application shall be accompanied by the full amount of the fees charge-able for the license sought. In addition to special requirements for specific licenses, as hereinafter provided, all applications for license under the provisions of this ordinance shall be by a written statement upon the forms provided by the Village Clerk and shall contain the following:

- (a) Any previous revocation or suspension and the reasons therefore.
- (b) Statements that applicant is not violating the zoning ordinance of the Village of Loch Arbour. If applicant occupies a nonconforming use, proof of date of occupancy and operation must be given.
- (c) Statement that applicant is not in default under the provisions of this ordinance or indebted or obligated in any manner to the Village of Loch Arbour, except for current taxes.
- (d) Such other facts relative to the general personal history of the applicant, or its officers and managers if said applicant is not an individual, so as to enable the Village license officer to make a fair determination of the eligibility of the applicant.
- (e) Name of person to whom license will be issued and his residence address. If applicant is not an individual, then the names, positions and residence addresses of all officers and managers of the applicant.
- (f) The premises at which the business is to be carried on and the name and address of the owner of said premises.

## Section 4. License Renewals and Transfers

Applications for renewal or transfer of a license shall follow the same procedure as is outlined for an original application.

On transfer of location of a licensed business to a new location within the village of loch Arbour, or on the sale of a going business remaining in the Village, licenses may be transferred, provided the annual license fee for the year has been paid and a transfer fee of five (\$5.00) dollars is paid to the village clerk.

## Section 5. Duplicate Licenses

A duplicate license may be issued by the village clerk to replace any license previously issued, which license has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a Notary Public of the state of New Jersey attesting to such fact and the payment to the village clerk of a fee of five (\$5.00) dollars.

## Section 6 Character Requirements

No license or renewal thereof shall be issued to a person not of good moral character. If applicant is not an individual, these provisions shall apply to its officers and managers.

## Section 7. Investigation of Applicants

Upon written request of the village license officer or the village clerk, the chief of police shall ascertain if any applicant has any criminal record and report in writing, affirmatively or negatively thereon within seven days after said request is made, indicating in his report his approval or disapproval of the granting of a license and giving his reasons therefore.

## Section 8. Appeal Procedure

After submission of the application and the required fees to the village clerk, the village license officer shall make any investigation necessary and shall indicate his written approval or disapproval of the license application within seven days after the application is filed with the village clerk. If approved, the license shall issue forthwith in the name of the village clerk. If disapproved, the village license officer shall forthwith notify the applicant and the village clerk in writing of such disapproval and the reasons therefore, and the applicant shall have ten days from receipt of notice of disapproval to appeal from the decision of the village license officer to the Board of Trustees of the Village of Loch Arbour, who after due hearing can affirm or reverse the decision of the village license officer.

## Section 9. License Specifications

Each license issued under the provisions of this ordinance shall state upon its face the following:

- (a) The name of the licensee and any other name under which such business is to be conducted.
- (b) The kind and address of each business so licensed.
- (c) The amount of license fee therefore.
- (d) The dates of issuance and expiration thereof.
- (e) Such other information as the village license officer shall determine.

## Section 10. Regulations

In addition to the provisions hereinafter set forth covering specific licensed operations, every licensee under this ordinance shall:

- (a) Permit all reasonable inspections of his business.
- (b) Permit access to the licensed premises at all reasonable times by the village license officer, or his designated agent.
- (c) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
- (d) Avoid all forbidden, improper, unlawful or unnecessary practices, business or conditions which do or may affect the public health, morals or welfare.
- (e) Refrain from operating the licensed business on premises after expiration of his license and during the period when his license is revoked or suspended.
- (f) Post and maintain his license upon the licensed premises in a place where it may be seen at all times.
- (g) Not lend, sell, give or assign to any other person to use and display, or destroy, damage or remove, or have in his possession, any license or insignia which has been issued to said licensee except as authorized by the village license officer or by law.

## Section 11. Terms of License

All licenses required by this ordinance, unless otherwise specified, shall be issued for the calendar year of January 1 to December 31, except licenses issued under the rules regulations of the Alcoholic Beverage Control Division, which are exempt from the provisions of this ordinance as far as liquor sales and services are concerned and shall be governed by that law as to licenses.

## Section 12. Due Date of license Fees

All license fees shall be due on the first day of January in each year and shall be payable on or before that day.

### Section 13. Fee Rebates and Refunds

No rebate or refund of any license fee or any part thereof shall be made by reason of retirement of licensee from business or by reason of the non-use of such license for all or any portion of the license year, or by reason of a change of location or business or by reason of fire or other accident or other casualty rendering the use of such license ineffective.

### Section 14. Fees

The license fees to be paid annually as herein provided for are as follows:

Automobile Laundry	\$ 50.00
Bathing Establishment With less than 50 lockers	\$175.00
Bathing Establishment With 50 or more lockers	\$350.00
Vending Machine	\$ 5.00
Automobile repair shop	\$ 25.00
All businesses not classified Or enumerated	\$ 25.00

The license fees to be paid daily as herein provided for are as follows:

Advertising and demonstrating buses, wagons or vehicles, sample distributors, each	\$ 2.00 a day
Book and soliciting agents selling books or magazines or periodicals by subscription, each	\$ 2.00 a day
Canvassers, transient and/or vendors, peddlers and solicitors, each	\$ 2.00 a day
Going-out-of-business sale, removal or fire sale, for each sale	\$ 5.00 a day
Handbill distributors, each	\$ 2.00 a day

### Section 15. Enforcement of License Provisions

It shall be the duty of the chief of police, the Village license officer and any police officer of a municipality under contract to the Village for police work to examine all places of business and all persons of the Village of Loch Arbour to determine if this ordinance has been complied with and to enforce the provisions of this ordinance against any person to be found to be in violating the same.

### Section 16. Exceptions to License requirements

No license shall be required of any person for any mere delivery in the Village of Loch Arbour of any property purchased or acquired in good faith from such person at his regular place of business outside of the Village where no intent by such person is shown to exist to evade the provisions of this ordinance.

### Section 17. Permits for Nonprofit and Public Welfare Groups

The Board of Trustees of the Village of Loch Arbour may authorize the issuance of special permits without the payment of any license fees or other charge therefore to any public, charitable, educational, literary, fraternal or religious organization for the conduct or operation of a temporary nonprofit enterprise for a public, charitable, educational, literary, fraternal or religious purpose. However, applicant shall submit the usual application form in the manner as hereinbefore required and shall operate, if granted a permit, in accordance with the requirements of this ordinance.

### Section 18. Occupational Restrictions

The practice of going in and upon private residences in the Village of Loch Arbour, in the County of Monmouth and State of New Jersey, by transient merchants, itinerant merchants, itinerant vendors, peddlers, canvassers, solicitors, salesmen or other of like occupation, not having been requested or invited so to do by the owner, occupant or occupants of said private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, magazines, services or the like, or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance and is hereby specifically prohibited and punishable as hereinafter provided.

### Section 19. Special Licenses

#### A. Vending Machines

1. License Required. No person shall operate or distribute or put to use any vending machine, as defined herein, without first having applied for and obtained a license or permit therefore in accordance with the provisions and fees of this ordinance.
2. Regulations. In addition to meeting all provisions and complying with all regulations of this ordinance, each licensee under this section shall permanently and conspicuously post the license or licenses issued hereunder at the location of the vending machine in the premises wherein the same is to be operated or maintained and shall have affixed thereto any insignia delivered for use upon the outside of the same so that the insignia may be seen at all times.

B. Going- Out-Of-Business, Removal and Fire Sales

1. Special Requirements. For a “going-out-of-business sale” or a “removal sale” or a “fire or other altered goods sale,” no person shall be granted a license unless the required fees are paid and the following special requirements, in addition to all other provisions of this ordinance, are met and complied with;
  - (a) He has been the owner of a business as described in the application for a license hereunder for a period of at least six months prior to the date of the proposed sale.
  - (b) He has not held a similar sale at the location stated in the application within one year last past from the date of such application.
  - (c) It applied to only one business and is not conducted or advertised in cooperation or by participation with any other business.
  - (d) He shall file with the licensing officer a complete inventory of goods that are to be offered for sale.
2. Coverage. In cases covered by the preceding paragraph, the license issued hereunder shall:
  - (a) Authorize only one type of sale described in the application at the location named therein.
  - (b) Authorize only the sale of goods described in the inventory filed with the licensing officer and shall forbid additions or replacements.
  - (c) Continue for a period not exceeding three months from the date of granting of license and shall not be renewable, assignable or transferable.
3. Special Exceptions. The provisions of the said paragraph shall not apply or affect:
  - (a) Any person acting pursuant to an order of process of a court or competent jurisdiction.
  - (b) Persons acting in accordance with their powers and duty as public officials.

C. Peddlers and Solicitors.

1. License Required. No person shall conduct a business as a transient merchant, itinerant merchant, itinerant vendor, peddler, canvasser, solicitor or handbill distributor, as defined in this ordinance, unless a permit or license therefore is first procured and kept in effect at all such times as required by this ordinance or any other law or ordinance of the Village of Loch Arbour, required fees paid and all provisions of this ordinance met.
2. License Applications. In addition to the other requirements of this ordinance, persons applying for licenses as transient merchants, itinerant merchants, itinerant vendors, peddlers, solicitors, canvassers or handbill distributors shall furnish this further information on their respective applications or attach the same thereto:
  - (a) A listing of all misdemeanors, felonies or violations of municipal ordinance for which applicant has been convicted, the nature of the offense and the punishment assessed therefore. If applicant is not an individual, these provisions shall apply to its officers and managers.
  - (b) The fingerprints of the person or persons having the management or supervision of the applicant’s business.
  - (c) The place or places in the Village of Loch Arbour where applicant proposes to carry on business, peddle, solicit, canvass or distribute, and the length of time he proposes to do so.
  - (d) The place or places within or without the Village of Loch Arbour where applicant, within two years next preceding the date of said application, did carry on business, peddle, solicit, canvass or distribute.
  - (e) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale, where manufactured and located and proposed method of delivery.
  - (f) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers.
  - (g) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.
  - (h) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicants business, or the method or plan of doing such business as the village license officer may deem proper to fulfill the purposes of this ordinance in the protection of the public good.
  - (i) A photograph of the applicant taken within 30 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
  - (j) If a vehicle is to be used, a description of the same, together with the license registration number or other means of identification.

3. Regulations. All licenses and licensees under this section are subject to the provisions and regulations of this ordinance and each licensee shall in addition be required to carry at all times and display to any person upon request his license and identification. Further, it shall be the duty of the chief of police, the license officer and any police officer acting for the Village of Loch Arbour to require any person seen peddling, soliciting, canvassing or distributing, as defined in this ordinance, who is not known by such officer to be duly licensed, to produce his peddler's, solicitor's, canvasser's or distributor's license, as the case may be.

#### Section 20. Revocation of Licenses

Any permit or license granted or issued pursuant to this ordinance may be revoked by the Board of Trustees after notice and hearing for any of the following causes;

- (a) Any fraud, misrepresentation or false statements contained in the application for license.
- (b) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
- (c) Any violation of this ordinance.
- (d) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- (e) Conducting the business licensed under this ordinance, through applicant himself, or any of his agents, servants or employees, 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.

#### Section 21. Notice of Hearing

Notice of hearing for the revocation of license under the provisions of the section preceding, shall be given in writing by the clerk or the village license inspector, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the licensee at his address indicated on his application at least five days prior to the date set forth for the hearing.

#### Section 22. Complaints

In addition to the provisions for revocation, the village license officer, the chief of police, any police officer or any taxpayer or resident of the village may make complaint in the municipal court of the Village of Loch Arbour for any violation of this ordinance, or any article, section, paragraph or provision thereof.

#### Section 23. Enforcement and Penalties.

Each and every person violating any provision of this ordinance, shall for each and every violation thereof, upon conviction thereof, for each and every violation, be subject to a fine of not more than \$200.00, or by imprisonment in the County Jail for a period not exceeding thirty days, or both, at the discretion of the Municipal Judge.

#### Section 24. Repeal

Ordinance Nos. 9, 14, and 75 of the Village of Loch Arbour are hereby rescinded and repealed.

#### Section 25. Validity and Separation of Ordinance

If any section, paragraph, clause or provision of this ordinance shall be adjudged invalid, such invalidity shall only affect that provision hereof, but all other provisions shall be and remain in full force and effect.

#### Section 26. Effective Date.

This ordinance shall take effect upon its final passage and publication, as provided for by law.