

ORDINANCE NO.: _____ - 2008

OF

**AN ORDINANCE RESCINDING IN ITS ENTIRETY THE LANGUAGE CONTAINED IN
CHAPTER 223, "PEDDLING AND SOLICITING" AND AMENDING
SAME BY SUBSTITUTING THEREFOR A NEW CHAPTER 223
TO BE ENTITLED " PEDDLING, VENDING AND SOLICITING"**

SECTION 1. Chapter 223, PEDDLING, VENDING AND SOLICITING

§ 223-1. License required.

It shall be unlawful for any person or organization who has not been issued a license as a peddler under Article II of this chapter to engage in business as a street vendor, peddler, canvasser or solicitor; selling wares or services from or by means of a vehicle, cart, pushcart, wagon, mobile platform, table, or other means of carrying, displaying, offering or serving same; or using public streets or sidewalks or other public property or calling at residences without the previous consent of the occupant or owner for the purpose of soliciting orders, sales, subscriptions or business of any kind or seeking donations to or alms for any church, charity or private institution whatsoever or selling or distributing any ticket or chance whatsoever without first having obtained a license of a peddler under Article II of this chapter ; or calling at commercial, manufacturing or industrial places of business without the previous consent of the owner or occupant for the purpose of seeking donations to or alms for any church, charity or private institution or selling or distributing any ticket or chance whatsoever without first having obtained a license as a peddler under Article II of this chapter; provided that any home solicitation by charitable or political organizations, or other activity subject to regulation hereunder, as those activities are defined by law and/or described herein, shall be exempt from the provisions of this chapter so long as they shall meet all other lawful requirements and be exempted herefrom by force or authority of superior law, rule or regulation, including but not limited to the Constitutions of the United States and the State of New York.

§ 223-2. Permit and license required; City Clerk designated as licensing officer.

A. It shall be unlawful for any person to engage in the business of vendor or peddler as defined in §23-1 and 223-3 of this article within the corporate limits of the City of Newburgh without first obtaining a valid permit and license therefor as provided herein. No invalid, expired, suspended, revoked, altered or counterfeit licenses shall be possessed, used, represented or displayed by any person, or purported to be valid for any reason whether in connection with peddling and soliciting or otherwise.

B. The City Clerk shall be the licensing officer and commissioner of licenses as provided in the General Business Law of the State of New York and shall keep a record of all licenses and the status thereof.

§ 223-3. Definitions.

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

CITY ~ The City of Newburgh of the State of New York, unless otherwise specified

FALSE, FRAUDULENT, MISREPRESENTATION, INACCURATE OR MISLEADING ~ (1) representations that goods have manufacture, sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have; the supplier or manufacturer has a sponsorship, approval, status, affiliation, or connection that he does not have; goods are original or new if they are deteriorated, altered, reconditioned, reclaimed or secondhand; or goods are of particular standard, quality, grade, style, or model if they are of another; and/or (2) the use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact if such use deceives or tends to deceive; and/or (3) disparaging the goods, services, or business of another by false or misleading representations of material facts; and/or (4) offering goods with intent not to sell them as offered; and/or (5) making false or misleading representations of fact concerning the reasons for, existence of, or amount of price reductions, or price in comparison to prices of competitors or one's own prices at a past or future time; and/or (6) falsely stating the reasons for offering or supplying goods at sale or discount prices.

FOOD ~ Any raw, cooked or processed edible substances, beverages, ingredients, condiments, ice or water used or intended for use or for sale in whole or in part for human consumption.

PUBLIC SPACE and PUBLIC STREETS ~ All publicly owned property between the private property lines on a street as such property lines are shown on City records including, but not limited to, a park, plaza, roadways, shoulder, tree space, sidewalk or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums and terminals.

VENDOR OR PEDDLER ~ Includes 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, merchandise, clothing, products, items for sale, 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, cart, pushcart, table, platform, automotive vehicle, railroad car, or other vehicle or conveyance, or other stationery location on a public street, sidewalk or other location on City-owned property normally used for public accommodation or travel, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions

of this article shall be deemed a “vendor” or “peddler,” subject to the provisions of this article. The word “peddler” shall include the words “vendor”, “street vendor”, “hawker” and “huckster,” and other such words carrying or conveying the same meaning and understanding and addressing the same activities described thereby.

The use of any pronoun shall be deemed to include both the masculine and the feminine, and the singular and plural, as the sense and meaning thereof shall appropriately require.

§ 223-4. Application information; health regulations; fee.

A. Applicants for permits and licenses under this article must file with the City Clerk a sworn application in writing, in duplicate, on a form to be furnished by the City Clerk, which shall give and provide the following information:

- (1) The name and a description of the applicant and date of birth.
- (2) The applicant's legal permanent and local business and residence addresses, telephone number(s) for home and business and cellular telephones, and e-mail and other means of electronic communications.
- (3) A description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant and if not, the name, address and telephone number of the producer or grower.
- (4) If employed by another, the name and address and telephone number and other information specified in A(2) hereinabove of the employer, together with credentials establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) If a wagon, cart, platform, vehicle, or other method or device is to be used, a description of the same, together with license number or other means of identification thereof.
- (7) If a source of power or energy is to be used in the conduct of the vending, a description of same; and a document from the City Code Compliance and/or Fire Department indicating its review and approval of same.
- (8) Two (2) identical photographs of the applicant, taken within 60 days immediately prior to the date of the 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. One such photograph shall remain on file with the application in the records of the City Clerk and one shall be permanently affixed to the permit issued by the City.
- (9) The fingerprints of the applicant.

- (10) A statement as to whether or not the applicant has been convicted of or pleaded guilty to any crime, misdemeanor or violation of any Federal, State or municipal ordinance, the date(s) of any and all such convictions, the nature of the offense and the punishment or penalty assessed therefor.
 - (11) A statement whether any license similar to or like that provided in this article was issued or denied to the applicant within the current or any prior year, whether in the City of Newburgh or elsewhere, and, if issued, whether such license had been revoked or suspended, setting forth the reasons for said revocation or suspension.
 - (12) If the applicant is applying for a renewal of a license issued in the year immediately preceding the year of such application, or if the applicant has ever been licensed by the City within the past five (5) years of such application by the City as a vendor or peddler, the applicant shall submit with such application records showing the following: proof of payment of New York State Sales Tax for the most recent prior such year for which the applicant was licensed by the City.
- B. If the applicant is offering food for sale under this Chapter, he shall file with his application a statement by a reputable physician licensed by the State of New York, dated not more than 10 days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease.
- C. At the time of filing the application, a non-refundable application fee of Seventy Five (\$ 75.00) Dollars shall be paid to the City Clerk to cover the cost of investigation and other City administrative costs relating to same.
- D. If the applicant and the activity regulated hereunder is also subject to the Health and Sanitary Code administered by the Orange County Department of Health, or of any other applicable law, code, rule, regulation or permit condition, he must submit satisfactory proof of compliance with all such, including but not limited to the proper issuance of any permits required, copies of which shall be provided to City as part of the application required hereunder.
- E. i. Whenever any information provided on the application for a license or for a renewal thereof has changed, the applicant and/or licensee shall notify the City Clerk of all such changes within ten (10) days thereof.
- ii. Each licensed vendor shall notify the City Clerk within ten (10) days if:
- a. he has committed or been found by a court to have committed four or more violations of any of the provisions of this Chapter on separate occasions; or

- b. he has failed to answer a summons, appear for a hearing or pay a fine imposed by a court for violation of this Chapter within thirty (30) days of its due date.

F. The applicant shall submit proof of a valid current Certificate of Authority from the New York State Department of Taxation and Finance to collect sales tax on all sales subject thereto by law.

G. The applicant shall provide proof of certification and approval by the County Sealer of Weights and Measures of all scales and measuring devices used by the applicant in the conduct of business.

§ 223-5. Investigation; disapproval or approval.

A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and return the said application to the City Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued. The applicant shall be entitled to receive upon request a copy of such disapproval.

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application, to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued.

§ 223-6. Fees; term of license.

A. Fees shall be computed and assessed as set forth in Chapter 163, Fees, of this Code.

B. Basis for fees. For the purpose of this article, any period of seven calendar days or less shall be considered one week; any period of more than seven calendar days and not more than 30 calendar days shall be considered one month; any period of more than 30 calendar days and not more than one calendar year shall be treated as a year. The annual fees herein provided for shall be

assessed on a calendar-year basis, and on and after July 1 of any year, the amount of the fee for such annual licenses shall be 1/2 the amount stipulated for the remainder of the year.

C. Any and all licenses issued hereunder shall expire on December 31 of the year in which same was issued.

§ 223-7. Exceptions and exemptions.

A. The following activities are excepted and/or exempt from the provisions of this Chapter related to licensing and fees:

- i. the sale of farm or garden produce by the actual farmer or grower;
- ii. or the door-to-door delivery or sale of newspapers, milk, bakery goods, eggs and cream along a regularly established route;
- iii. the activities of non-profit, charitable or other organizations or individuals who are holding fairs or other similar functions on City property with the permission of the City Manager for a definite short period of time and/or as same may be authorized by the City under the terms of a special event or permit and/or as authorized under the provisions of the City Code. For purposes of this regulation, a non-profit association shall be deemed to be (1) any governmental agency; (2) any charitable, educational, religious or political organization or any association incorporated in accordance with or subject to the provisions of the New York Not-For-Profit Corporation Law; or (3) any other organization or association which does not exist for purposes of pecuniary profit or financial gain and no part of the assets, income or profit of which is distributable to its members, directors, or officers;
- iv. persons with a bona fide affiliation with a street fair, block party, or festival (hereafter, "street fair"). For purposes of this regulation, a street fair is any event in a public space for which all permits required by law in order for the event to be held have been obtained from the appropriate City agencies by the association sponsoring same. A bona fide affiliation shall be deemed to mean: (1) residence on the block on which the fair is taking place, in the case of a fair sponsored by a block association; or (2) membership in the association, where the association does not have as its sole function the sponsorship of street fairs. Any non-profit association as defined herein holding a street fair, and any person who operates as a general vendor at such street fair, is exempted from the provisions of this Chapter relating to licensing and fees, as long as:
 - (a) the person has a bona fide affiliation with the sponsor of the street fair, is not acting as a general vendor other than at a street fair, and is making a contribution to the sponsoring association through participation in the street fair; or

- (b) the person who sells or offers to sell goods or services has a location during the fair on the street or sidewalk in front of a store normally maintained by that person. The sponsoring association must submit to the City Clerk, Police and Code Enforcement Offices a certification, which shall include the name and address of each person qualifying for the exemption prior to the opening of the street fair.
- v. Any activity which is exempt to such extent or degree from the provisions of this Chapter by the terms, force or effect of superior law, rule, regulation or authority including but not limited to the Constitutions of the United States and the State of New York.

C. No exception provided for hereunder shall be deemed to be an exception or waiver of any other requirement or condition imposed by any other provision of any law, code, rule or regulation of City or of any other agency with jurisdiction thereover.

§ 223-8. Nontransferability; assistants.

A. No license issued under the provisions of this article shall be used at any time by any person other than the one to whom it was issued and whose picture appears thereon, nor shall any vendor or peddler allow any other person to carry on or conduct the business of vending from, of or with the goods, vehicle, pushcart or stand used by or belonging to such licensee.

B. Each vendor licensed hereunder shall be allowed to employ up to two (2) assistants to assist such vendor in his operations. The license issued to such vendor shall allow such assistants to assist in such vendor's operations; such assistants shall not be required to be separately and individually licensed. Such licensed vendor shall be fully and completely responsible for all acts of such assistants, and the acts of such assistants shall be considered the acts of the licensee for the purposes of enforcement of this Chapter. While acting as assistant to the licensed vendor, such person shall remain no farther than fifteen (15) feet from the location of such vendor.

§ 223-9. Food Vendors.

Each licensed food vendor and mobile food unit licensee shall:

- (a) Permit regular inspections by any authorized City law or Code Enforcement Officer of any mobile food unit used in the operation of his business, or any premises under his control in which food is intended to be sold, offered for sale, distributed or given away by him as a food vendor is prepared, processed or stored, and present such mobile food unit for inspection at such place and time as may be designated by the City Code Enforcement or Police Department.

- (b) Provide to the Code Enforcement or Police Department, or any other authorized officer or employee of the City, the names and home and business addresses of the owners of such service rooms, commissaries, depots, or distributors from whom such licensee received his food supply and his mobile food unit are stored when not in use for sale or distribution.
- (c) Have in his possession and make available for inspection satisfactory proof or documentation detailing the source of all foods being held, stored, offered for sale, distributed or given away.
- (d) Not use or permit anyone else to use the mobile food unit for vending, distributing, or giving away of any foods other than those authorized in writing by the license issued to such vendor.
- (e) Refrain from acting as a food vendor or operating a mobile food unit after the expiration of his license or permit and during any period of suspension or revocation of same.
- (f) Surrender his license, permit, badge and insignia promptly to the City Clerk upon revocation, suspension, termination or expiration of his license or permit.
- (g) Not sell, lend, lease or in any manner transfer his license, permit, badge or insignia unless otherwise specifically provided by law or by rule or regulation prescribed by this Code.
- (h) Comply with all laws, codes, rules and regulations applicable to all vendors provided herein, and all laws, codes, rules and regulations applicable to the sale or provision of food and drink to the general public.

§ 223-10. Loud noises and speaking devices.

No vendor or peddler nor any person on his behalf or in his employ or engaged in such activity with him shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loudspeaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of said city or upon any private premises in said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell, if same shall cause a nuisance or disorder or disturb the peace and quiet of the City or of any public or private area therein; nor shall such sounds be employed while any vendor or peddler and/or their vehicle or platform from which their wares are offered for sale is located in a stationary location for any length of time. Such sounds may be employed if the vendor or peddler is in a vehicle in motion and the route taken by such vehicle is continuous and not repetitive and if such sounds do not at any time cause a nuisance or disorder or disturb the peace and quiet of any area or part of the City.

The reasonable judgment of any police officer or other officer charged with enforcing this Chapter shall be determinative of whether such sounds cause a nuisance or disorder or disturb the peace and quiet of any area or part of the City. Upon such determination such officer shall give verbal notice to such vendor or peddler and such vendor or peddler shall immediately cease making or causing such sounds. The failure of a vendor or peddler to immediately cease making or causing such sounds after receiving such notice shall constitute a violation of this Chapter.

§ 223-11. Use of public space and public streets and certain property restricted.

A. No vendor or peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted a specified stationary location, nor shall he be permitted to operate in any congested area where his operations reasonably would or might impede or inconvenience the public, or cause congestion or public disorder or block or impede the free flow of pedestrian or vehicular traffic. For the purpose of this article, the judgment of a police officer or other City officer or official charged with the duty or possessing the authority to enforce City Codes and any applicable laws, rules or regulations, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced, or the use made by the vendor or peddler is contrary to the provisions hereof. Such officer or official shall have the authority to compel any vendor(s) or peddler(s) to move to a different location in order to relieve congestion or otherwise resolve any disputes and restore calm and order at any public location.

B. No vendor or peddler shall engage in any vending business on any sidewalk unless such sidewalk has at least an eight-foot wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk, or if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.

C. No vendor or peddler shall occupy more than ten linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no vendor or peddler operating any vending business on any sidewalk shall occupy more than four linear feet to be measured from the curb toward the property line.

D. No vending vehicle, pushcart, stand, goods or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure including, but not limited to lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers.

E. A vendor or peddler shall not place a vehicle, push-cart or stand, or conduct a general vending business at a location in the roadway where stopping, standing or parking is prohibited, or during a time period when stopping, standing or parking is restricted.

F. A vendor or peddler shall not place a vehicle, pushcart or stand, or conduct a general vending business in the roadway in a metered parking space unless such vendor has complied with

the coin requirements of such meter. A vendor or peddler shall not remain in a metered parking space for a period of time in excess of the maximum time permitted at such space. A vendor or peddler shall not allow any vehicle, stand, platform or other device used to display or carry wares, food, merchandise or other products for sale to extend beyond the delineated limits of such parking space.

G. A vendor or peddler shall not place a vehicle, pushcart or stand or conduct a general vending business in the roadway within fifteen (15) feet of a fire hydrant or within a safety zone.

H. No vending pushcart, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within twenty feet from an entranceway to any building, store, theatre, movie house, sports arena or other place of public assembly.

I. No vendor or peddler shall vend within any bus stop or taxi stand, or on the sidewalk immediately adjacent thereto, or within ten feet of a crosswalk at any intersection or within ten feet of any driveway.

J. Each vendor or peddler vending from a pushcart or stand in a street or roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a vendor or peddler vend so as to restrict the continued maintenance of a clear passageway for vehicles.

K. Unless otherwise allowed by law, rule, regulation or permit, no vendor shall operate within twenty (20) feet of any other vendor whose location can be determined to have been previously and continuously established.

L. (i) Where exigent circumstances exist and a police officer, or other officer or employee of any city agency authorized to enforce this Chapter gives notice to a vendor or peddler to temporarily move from any location such vendor or peddler shall not vend from such location. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

(ii) When a vendor or peddler has received notice to temporarily move from any location where exigent circumstances exist, such vendor or peddler shall immediately stop all vending business and within one minute begin to and as quickly as possible move his goods, vehicle, pushcart or stand from the entire area in which the exigent circumstances exist as determined and stated by a police officer or other authorized person giving such notice to move. A vendor or peddler shall not return to the area of the exigent circumstances while such condition continues to exist. In the absence of a statement to the contrary by an authorized person, it shall be presumed that the exigent circumstances will continue to exist in such area for a period of two hours from the time notice to move was given to the vendor or peddler.

M. No vendor or peddler licensed under this Chapter shall leave any items, wares, goods, merchandise, vehicles, pushcart(s), stand(s), platform(s), boxes, bales, containers, trash or other equipment or material on any City or other public property or on private property without the permission of the owner thereof overnight, but must remove same to a private secured location at close of business.

N. No vendor or peddler shall trespass upon private property where the owner or proprietor thereof shall have prohibited such activity thereon.

O. No vendor or peddler shall vend, sell or give away any product or merchandise within a radius of One Thousand (1000) feet of any business, store or permanent building or facility where the same category or type of product or merchandise is offered for sale.

§ 223-12. Restrictions on use of parks.

No person, whether holding a license or not, shall sell, offer or expose for sale any foodstuffs, items or merchandise within Delano-Hitch Recreation Park or within Downing Park or upon or along any street or public place which forms a boundary of said parks or within one block of either park in any direction. This section shall not apply to operators of food stands at Delano-Hitch Recreation Park who have been granted franchises pursuant to Chapter 13, City Property, Sale or Lease of, of this Code, or to any separate contract or agreement or Special Events or other permits authorized or issued by the City providing therefor.

§223-13. Restrictions on use of generators.

No vendor or peddler shall employ a generator or other independent source of power while vending in any other City park or recreational facility where vending is not otherwise prohibited by this Chapter, unless otherwise permitted or authorized by the City, including the inspection and approval thereof by the Code Enforcement and Fire officials with jurisdiction to inspect same and enforce all codes, rules and regulations.

§ 223-14. Garbage and Waste Materials.

Garbage and waste materials generated in the course of business whether generated by the vendor or peddler or the customers thereof, shall not be permitted to accumulate or to become a nuisance, but shall be placed in separate secure and sanitary containers provided for such purpose by the vendor or peddler. The garbage receptacles and their contents shall be properly removed by the vendor or peddler whenever necessary to prevent spillage and accumulation of trash, and at the close of each business day. Vendors and peddlers shall not use public trash receptacles or storm or sewer lines, mains or systems for disposal of such containers and trash, or other organic or inorganic waste, but shall take such containers and trash away with them and dispose of same privately and lawfully at their own expense. Vendors and peddlers shall remain responsible for

keeping the area immediately surrounding their location of operation within a fifteen (15) foot radius clean and free of all trash and debris at all times.

§ 223- 15. Restrictions on vending near schools.

Vendors shall not sell any foodstuffs, confectionery, drink or ice cream on the grounds of any school or on the public streets bordering any school or within one block of any school in any direction between the hours of 8:00 a.m. and 4:00 p.m. on days when school is in session.

§ 223- 16. Weighing and measuring appliances.

Any vendor carrying, keeping or using scales, measures or other appliances for weighing or measuring shall first have the same inspected by the Sealer of Weights and Measures or other municipal official with authority over same, and, if the latter shall find such appliances correct and true, his certificate to that effect shall be affixed to said scales, measures or other appliances in a conspicuous place. No vendor shall carry or use any such appliance which is not correct and true and does not record and give the weight and quantity accurately and as claimed by said vendor.

§ 223- 17. Display and exhibition of license upon request.

Vendors and Peddlers are required to display all of their permits and/or their licenses visibly and prominently on their person or at the location where they are operating, and to produce same at the request of any citizen or City official or officer.

§223-18. Display of items for sale, prices; receipts, provision to consumers, record-keeping.

a. No vendor shall make, portray or communicate any misrepresentations or false, fraudulently inaccurate or misleading information concerning any merchandise. All items sold or offered for sale by general vendors shall have conspicuously displayed, at the point of offering for sale, the total selling price exclusive of tax by means

- (i) of a stamp, tag or label attached to the item, or
- (ii.) a sign at the point of display which indicates the item to which the price refers, provided that this information is plainly visible at the point of display for sale of the items so indicated.

b. Each general vendor shall offer a consumer a serially numbered receipt for any purchase. The receipt must include:

- (i.) the name and home address of the general vendor;

- (ii.) the date of the purchase;
- (iii.) the total amount of money and tax paid for the purchase;
- (iv.) a description of the item purchased; and
- (v.) the license number of the vendor.

c. Each general vendor shall retain a duplicate copy of each receipt which shall be produced for inspection upon request by Police or other Code Enforcement personnel. The receipts shall be presented for review to any City enforcement officer by the general vendor upon request.

§ 223-19. Enforcement by police and other enforcement officers; confiscation and return of property.

A. It shall be the duty of any police officer or other authorized law or code enforcement officer of the City of Newburgh to require any person seen peddling and who is not known by such officer to be duly licensed to produce his peddler's license and to enforce the provisions of this article against any person found to be violating the same.

B. Any City police or code enforcement officer who determines that a vendor has committed or is committing one or more violations of this Chapter relating to vending without a valid license, failure to pay fees or fines, improper use of streets, improper management of waste, inaccurate weighting and measuring, or false and misleading misrepresentations to consumers, such officer may confiscate by taking physical custody and possession the goods, merchandise and wares of such vendor and any platform or vehicle used for such vending.

C. A vendor who has had any goods, or any vehicle, platform, pushcart or stand removed under the provisions of this Section may serve notice of a request for the return of such property. The City may return said goods and/or vehicle before or after a judicial determination of the charges. Unless the judicial proceeding has terminated in favor of the vendor, the owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand or goods which have been removed under the provisions of this Section, such person(s) may be charged with the reasonable costs as set forth in Chapter 297, Towing of the Code of Ordinances for the removal and storage of such goods, platform, pushcart, stand and/or vehicle payable prior to the release of such goods, platform, vehicle, pushcart or stand.

§ 223-20. Records and record-keeping; City officials; licensees.

A. The Chief of Police and/or Director of Code Compliance and the Corporation Counsel shall report to the City Clerk all convictions for any and all violations of this Chapter, and the City Clerk shall maintain a record for each license issued and record the reports of violations therein.

B. Each licensee shall keep and maintain accurate and complete records as follows:

Each vendor shall keep written records of daily gross sales, purchases and expenses including receipts for expenditures, and any other business-related records as the Chief of Police or Director of Code Compliance may require, and shall make such records available for inspection by any authorized official or employee of the City at all reasonable times upon demand, including daily gross sales receipts from vending in a format that includes the month and year, the date, the daily sales, sales tax collected and the total sales for the date. Such records shall be kept in the following format:

Date : Item Sold : Sales Tax Collected : Total Price

This shall be in addition to the requirement to keep and maintain duplicate receipts and such other records which are required under this Chapter and under other laws, rules and requirements. All records shall be made available to Police and Code Enforcement personnel, upon request, at the Department's offices.

§ 223-21. Suspension or revocation of license.

A. Any license or permit issued under the provisions of this article may be suspended or revoked by the Police Chief and/or the City Manager of the City of Newburgh 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 business as peddler.
- (3) Any violation of this article.
- (4) Conviction of any crime or misdemeanor involving moral turpitude or misconduct arising out of commercial dealing or the conduct of business.
- (5) Conducting the business of vending or peddling in violation of any provision of this Chapter or 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.
- (6) Non-payment or being in arrears in paying any debt, judgment, taxes, charges, fees, fines or other moneys due and owing to the City or other municipal or government agency.

B. Notice of the 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 last known address at least five days prior to the date set for hearing.

C. Any permit issued under this Chapter shall be promptly surrendered to the City Clerk upon its suspension or revocation.

§ 223-22. Appeals.

Any person aggrieved by the action of the Chief of Police or the City Clerk or the City Manager in the denial or revocation or suspension of an application for permit or license as provided in this Chapter or in the decision with reference to the revocation of a license as provided in this Chapter shall have the right of appeal to the Council of the City of Newburgh. Such appeal shall be taken by filing with the Council, within 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 Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in writing addressed to the address provided by the applicant for notice of hearing on denial, suspension or revocation. The decision and order of the Council on such appeal shall be final and conclusive.

§ 223-23. Penalties

In addition to all other penalties provided under this Chapter or of any provision of the City Code or of any other law, rule or regulation of the State or other municipality or agency with jurisdiction over the subject, the following schedule of penalties shall apply for each separate violation of this Chapter.

Within the same calendar year:

for one Conviction	\$50.00
for a second Conviction	\$100.00
for a third Conviction	\$250.00
for a fourth and for each subsequent Conviction	\$500.00 and
suspension or revocation of the license as provided under 223-18	
hereinabove.	

§ 223-24 Lost licenses; duplicates; fee.

The holder of any license issued hereunder shall promptly report the loss, mutilation or destruction thereof in writing to the City Clerk who, if satisfied as to the facts establishing or concerning same may issue a duplicate license, only to the individual to whom the original was issued. Such duplicate license shall have plainly marked upon the face thereof the word

“DUPLICATE.” The fee to be charged for the issuance of each duplicate license shall be Fifty (\$50.00) Dollars.

§ 223-25. License in addition to county, state and other licenses.

Notwithstanding the issuance of a license pursuant to the provisions of § 32 of the General Business Law or other laws, codes, rules or regulations of any municipal agency or of the State of New York, no person obtaining such a license shall be permitted to carry on the business of a vendor or peddler upon the streets and highways of the City of Newburgh without first obtaining a license pursuant to this article.

§ 223-26. Provisions cumulative with other laws.

The provisions of this Chapter shall be in addition to and not instead of the provisions of any other laws, codes, rules or regulations of the Federal, State, County or City government applicable to the subject.

§223-27. Separability and preservation of provisions.

If any of the provisions of this Ordinance shall be held invalid, the remainder shall remain valid and enforceable as provided by law.

SECTION 2. This Ordinance shall take effect immediately, as provided by the Municipal Home Rule Law and other laws of the State of New York.