

## County of Erie Local Laws of 1998

Local Law No.	Title/Subject A local law . . .
4-1998	. . . regulating peddling and vending pursuant to section 117-c of the highway law

**Section 1.** **Legislative intent.** It is the purpose of this local law to exercise the powers granted the county of Erie by section 117-c of the highway law.

**Section 2.** **Prohibition of vending on certain county highway rights-of way.** Except as permitted by a license issued by the Erie county clerk pursuant to section four of this local law, hawking, peddling, vending and sale of goods, wares, or merchandise or solicitation of trade is prohibited on any part of the right-of-way of Abbott road in the town of Orchard Park, New York which is contiguous to any land now or in the future owned by the county of Erie and devoted to use as a county sports stadium. The right-of-way to which this prohibition applies is more particularly described in section three of this local law. Such prohibition shall extend to and include all vehicle ways, shoulders, berms, planted areas and sidewalks contained within such right-of-way, as set out in section three of this local law, and as more particularly described in the right-of-way books and maps maintained by the commissioner of public works of the county and the deeds of county lands in the custody of the deputy director of finance for the county. Where county lands devoted to such stadium use extend along one side only of Abbott road, this prohibition shall extend only to the centerline of such road abutting such county lands.

**Section 3.** The commissioner of public works shall promulgate and from time to time amend an official map delineating the portions of Abbott road in the town of Orchard Park in which vending is prohibited under section two of this local law.

**Section 4.** Disabled veteran vending permits. Any honorably discharged member of the armed forces of the United States who, is a disabled veteran pursuant to section thirty-five of the general business law and is: (a) a resident of the state of New York; (b) has been resident in the county of Erie for at least six months; (c) who is physically disabled as a result of injuries received while in the service of said armed forces; and, (d) who has been granted a license by the Erie county clerk pursuant to section thirty-two of the general business law and section eight of this local law, shall be granted a permit by the Erie county clerk for the purpose of hawking or peddling, without the use of anything but a hand-driven vehicle, within the right-of-way described in section three of this local law. The use of stands, tents or shelters is expressly prohibited within said right-of-way.

- Section 5. Enforcement.** Section two of this local law shall be enforceable against any violator by any peace or police officer of the state of New York, by issuance of an appearance ticket returnable in the municipal court of the city, town or village in which such appearance ticket is issued.
- Section 6. Penalties.** Any person who shall hawk, peddle, or sell goods or services in violation of section two of this local law shall be guilty of a violation punishable upon a first conviction by a fine in the amount of one hundred dollars. A second or subsequent violation of section two of this local law shall be punishable by a fine in the sum of five hundred dollars.
- Section 7. Enforcement.** This local law shall be effective and enforceable only to the extent that the county of Erie shall provide, by local law, by regulation of the commissioner of public works or of the director of weights and measures, or by lease agreement with the tenant of the county stadium, for the hawking, peddling, vending and sales of goods, wares or merchandise or solicitation of trade in designated vending areas on the ground of county-owned lands leased for use as a stadium which shall contain fifty-thousand or more seats. Honorably discharged members of the armed forces of the United States, who are entitled to hawk, vend, sell or peddle merchandise in the public right-of-way pursuant to sections thirty-two and thirty-five of the general business law, shall be given first preference in any assignment of vending location or in the allocation of such locations.
- Section 8. Veteran licenses.** Pursuant to section thirty-two of the general business law, every honorably discharged member of the armed forces of the United States, who is a resident of New York state and resident in Erie county for at least six months 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 such veteran, if a resident of this state and a resident of Erie county for at least six months, shall have the right to apply for a vendor license from the Erie county clerk. Any such former member of the armed forces of the United States may present to the Erie county clerk his original certificate of honorable discharge, or a copy thereof duly certified by the recording officer or a certificate in lieu of lost discharge issued by a department of the armed services of the United States which shall show that the person presenting it is a veteran of any war, or that he has served overseas in the armed forces of the United States. He shall also fill out a blank which shall when filled out state his name, residence at the time of application, nature of goods to be sold, and if the applicant is working on commission or percentage for any person firm or corporation, the name and business address of such person, firm or corporation. This statement shall be signed by the applicant in the presence of the county clerk, or a deputy designated by him, and the name on the application and on the original certificate of honorable discharge shall be compared by the county clerk to ascertain if the person so applying is the same person named in the original certificate of honorable discharge. The county clerk when so satisfied shall issue, without cost, to such former member of the armed forces of the United States, a license certifying him to be entitled to the benefits of section thirty-two

of the general business law and the benefits granted by section eleven of this local law. The application for the license shall be accompanied by a photograph of the applicant taken within thirty days prior to such application and upon the issuance of such license shall be attached thereto.

**Section 9. Vending on stadium grounds.** The county of Erie shall provide by lease agreement with the tenant of the county stadium for the establishment of no more than sixty vending sites to be located in not more than three vending areas on the grounds of the county football stadium in the town of Orchard Park. The commissioner of public works shall designate one vending area on Community Drive on the stadium grounds. The commissioner of public works shall designate at least one additional vending area on the stadium grounds.

**Section 10. Vendor licenses.** The director of weights and measures shall establish regulations for the issuance of vendor permits at the designated vending sites on the grounds of the county stadium in the town of Orchard Park. Such regulations shall provide that no applicant for a permit shall be eligible to receive a permit unless:

- a. such applicant shall provide proof of liability insurance of types and in minimum amounts and form as may be specified by the county attorney together with an indemnification in such form as shall be prescribed by the county attorney;
- b. such applicant shall present at the time of application a sales tax certificate issued by the New York state department of taxation and finance, which certificate shall be prominently displayed by the vendor whenever conducting sales at an allocated vending site;
- c. if such applicant intends to sell foodstuffs, the applicant shall, before selling such foodstuffs, secure and prominently display a current food vendor permit from the Erie county commissioner of health. No person shall be eligible for a permit if, within three years prior to the date of application, such person has been found guilty, by a court of competent jurisdiction, of a violation or crime committed on stadium property; and,
- d. such applicant shall vend only as an independent vendor and not as an employee, agent, or independent contractor of another person, partnership or corporation.

**Section 11. Allocation of vending sites.** The director of weights and measures shall establish regulations for the allocation of vending sites by the issuance of permits to qualified applicants pursuant to section seven of this local law, at the designated vending sites established on the stadium grounds. Such permits shall be granted annually for a one year period to commence the first day of August in the year issued and to expire the thirty-first day of July in the following year. No fee shall

be charged for any vending permit. Vending permits shall be allocated by lottery as follows:

- a. **Disabled veteran vendor lottery.** A first lottery shall be held for allocation of vending sites to honorably discharged members of the armed forces of the United States who are physically disabled as a result of injuries received while in the service of said armed forces, as described in section thirty-five of the general business law, and who are New York state residents resident in Erie county and are holders of a license granted by the Erie county clerk pursuant to section thirty-two of the general business law and section eight of this local law.
- b. **Veteran lottery.** If, following allocation of vending permits to applicants in the lottery described in subdivision a of this section, vending sites remain available, a second lottery shall be held for allocation of vending sites to honorably discharged members of the armed forces of the United States who are residents of New York state and Erie county, and who are veterans of any war, or who shall have served in the armed forces of the United States overseas and the surviving spouse of any such veteran, who shall hold a license issued by the Erie county clerk issued pursuant to section thirty-two of the general business law and section eight of this local law.
- c. **General lottery.** If, following allocation of vending permits to applicants in the lottery described in subdivision c of this section, vending sites remain available, a third lottery shall be held for allocation of all remaining vending sites to the general public.

**Section 12. Vendor regulations.** The director of weights and measures shall establish regulations for the conduct of vending at the designated vending sites. Such regulations shall:

- a. require that all permitted vendors shall maintain their allocated sites in a clean and orderly manner, and require each to leave its allocated vending site in a clean condition upon the close of each day's business, including the disposal of litter on grounds adjacent to the allocated vending site;
- b. prohibit sale of: alcoholic beverages; tobacco products of any nature; controlled substances; contraband materials, including those in violation of the trademark and copyright laws of the United States; and obscene materials; and
- c. consistent with lease agreements for the county stadium, regulate signs and advertising to maintain an aesthetic appearance in each vending area, including regulations limiting advertising to goods or services sold at the vending site and specifically prohibiting advertising of tobacco products.

- Section 13. Vendor conduct.** The director of weights and measures may establish rules for vendor conduct, including requirements that any persons working at an all allocated vending site shall conduct themselves in an orderly and courteous manner.
- Section 14. Revocation of permits.** The director of weights and measures may, following a hearing held on eight days' written notice served either personally at the allocated vending site or by first class mail upon the permit holder, revoke a permit for: violation of any rule or regulation established pursuant to section nine, ten or eleven of this local law; failure to maintain in force required liability insurance or health department permits required by section eight of this local law; or a finding, by a court of competent jurisdiction, of the commission of a violation or crime on stadium property. In addition, the director of weights and measures may immediately suspend a permit when he has received notice that the vendor has been convicted of violation of any law on stadium grounds; that the commissioner of health has revoked or suspended a required food service permit; or that required liability insurance has been canceled. In such event, the director shall immediately notify the vendor, by first class mail, of suspension pending a revocation hearing to be held within ten days of the date of such notice. Any determination of the director of weights and measures shall be appealable to the commissioner of public works.
- Section 15. Termination of permits.** All permits issued pursuant to this local law shall terminate at midnight on the thirty-first day of July in each year. Nothing in this local law shall be construed to grant to any person any right of renewal of any permit. Upon the termination of the permit, whether by termination or by revocation, each vendor shall remove all signs and equipment which the vendor may have placed during the course of the permit period and shall leave the vending site in broom clean condition.
- Section 16. Severability.** If any clause, sentence, subdivision or section of this local law shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision or section thereof directly involved in the proceeding or action in which such adjudication has been rendered.
- Section 17.** This local law shall take effect immediately.

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