

LOCAL LAW NO: 2001-~~X~~3

SECTION 1. Title:

This Law shall be known as the Handbill Law of the Village of Tannersville.

SECTION 2. Definitions:

(a) Commercial handbill -- any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

(1) Which advertises for sale any merchandise, product, commodity, or thing;

(2) 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;

(3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be derived to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this State, or under any local law of this municipality; or

(4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor

(b) Newspaper -- any newspaper of general circulation, any newspaper duly entered with the U.S. Postal Service, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law: and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(c) Non-Commercial Handbill -- any printed or written matter, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a commercial handbill or a newspaper.

(d) Obscene -- material which depicts or describes sexual conduct that is objectionable or offensive to accepted standards of decency which the average person, applying contemporary community standards would find, taken as a whole, appeals to prurient interests or material which depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable State law, which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(e) Person -- any person, firm, partnership, association, corporation, company or organization of any kind.

(f) Private premises -- any dwelling, house, building, or other structure, designed or used in whole or part for residential purposes, whether inhabited or uninhabited, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(g) Public place -- any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

SECTION 3. Posting Notice, Placard, Bill, etc., Prohibited:

No person shall post, stick, stamp, paint or otherwise affix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamp post, electric light, or telephone pole, or railway structure, hydrant, shade tree or tree-box, or upon the piers, columns, railings, gates or other parts of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm except such as may be authorized or required by the laws of the U.S., NYS, and local laws of this municipality.

SECTION 4. Throwing Handbills in Public Places Prohibited:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within the municipality. Provided, however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any commercial handbill in any public place to any person willing to accept such handbill.

SECTION 5. Placing Handbills In or Upon Vehicles Prohibited:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any automobile or other vehicle. The provisions of this Section shall not be deemed to prohibit the handing, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

SECTION 6. Distribution of Handbills on Uninhabited/Vacant Private Premises Prohibited:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any private premises which are uninhabited or vacant.

SECTION 7. Distribution of Handbills - Where Authorization Posted:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises, unless requested by the owner, tenant or authorized agent of the owner or tenant to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "Handbills Allowed", or any similar notice, indicating in any manner that the occupants of said premises do desire to have any such commercial handbills left upon such premises.

SECTION 8. Distributing Handbills at Private Premises; Exceptions:

(a) No person shall throw, deposit, or distribute any commercial handbill in or upon private premises except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises; but only if authorized, or with posting present, as specified in "Section 7" above.

(b) The provisions of this Section shall not apply to the distribution of mail by the U.S. or to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

SECTION 9. Handbills Depicting Certain Matter Prohibited:

It shall be unlawful for any person to post, hand out, distribute or transmit any sign, or any handbill:

- (a) Which is reasonably likely to incite or to produce imminent lawless action; or
- (b) Which is obscene or unlawful.

SECTION 10. Permit Required:

The activities regulated by this Local Law may only be undertaken subsequent to the issuing of a permit by the Clerk of the Village of Tannersville. The applicant for a permit must submit to the Clerk the name, address and telephone number of the entity which is seeking the permit, a comprehensive description of the materials sought to be distributed, the proposed days and hours of distribution and the names and addresses of all of the individuals who shall be employed or otherwise authorized by the applicant to perform the proposed distribution of materials.

SECTION 11. Existing Local Laws Not Affected:

This local law shall not be deemed to repeal, amend or modify any existing local law, either prohibiting, regulating or licensing canvassers, hawkers, peddlers, transient merchants, or any person using the public streets or places for any private business or enterprise, or for commercial sale, not covered herein

SECTION 12. Penalty:

Violations of this local law, upon conviction thereof, shall be punished by a fine or penalty of not more than Five Hundred and 00/100 (\$500.00) Dollars.

SECTION 13. Severability:

If any part of this local law is held invalid by a court of competent jurisdiction, the remainder thereof shall not be affected.

SECTION 14. Effective Date:

This local law shall take effect upon filing with the Office of the Secretary of State.