

MUNICIPAL CODE
OF THE
CITY OF ROCHESTER
1901-1902
LICENSED
OCCUPATIONS



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ROCHESTER, N. Y.

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MUNICIPAL CODE

OF THE

CITY OF ROCHESTER

LICENSED OCCUPATIONS

COMPILED BY EDWARD R. FOREMAN
UNDER DIRECTION OF CORPORATION
COUNSEL WILLIAM W. WEBB
AND PRINTED BY THE AUTHORITY
OF THE COMMON COUNCIL

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DEPARTMENT OF PUBLIC SAFETY

Under the White Charter the Mayor appoints the Commissioner of Public Safety and has general authority over all Departments and Bureaus. The Department of Public Safety comprises the Police, Fire, Health and Building Bureaus.

JAMES G. CUTLER, Mayor

GEORGE A. GILMAN
Commissioner of Public Safety

J. C. HAYDEN
Chief of Police

M. J. ZIMMERMAN
Acting Inspector of Police

CHARLES LITTLE
Chief of Fire Department

GEORGE W. GOLER, M. D.
Health Officer

JOHN A. P. WALTER
Fire Marshal

INTRODUCTION

It is within the province of the police power to regulate such occupations as are of a *quasi*-public nature or which, if unrestricted, may be injurious to the public health, safety, morals, or the general welfare. This power may be exercised by the legislature or delegated to the common council.

In the city of Rochester, under the express or implied authority of existing laws, the common council has passed ordinances governing various occupations. Besides these ordinances certain statutes passed by the legislature impose similar restrictions.

This book presents chapter two of the penal ordinances of the city of Rochester covering "Licensed Occupations" which, by its terms and the annotations therein contained, gives complete information as to what occupations are subject to public control within this city.

EDWARD R. FOREMAN

Rochester, N. Y., Nov. 4th, 1905

CERTIFICATE

OFFICE OF THE CITY CLERK

I Certify Hereby THAT THE COPY OF CHAPTER TWO OF THE PENAL ORDINANCES OF THE CITY OF ROCHESTER RELATING TO LICENSED OCCUPATIONS PRINTED IN THIS VOLUME IS A CORRECT TRANSCRIPT OF THE TEXT OF THE ORIGINAL ORDINANCE PASSED BY THE COMMON COUNCIL; AND THAT SAID ORDINANCE WAS DULY ENROLLED AND ATTESTED BY THE CLERK, SIGNED BY THE PRESIDENT OF THE COMMON COUNCIL, APPROVED IN WRITING BY THE MAYOR, PUBLISHED IN THE OFFICIAL NEWSPAPERS OF THE CITY IN COMPLIANCE WITH THE TERMS OF THE CHARTER, AND IS PUBLISHED IN THIS VOLUME BY AUTHORITY OF THE COMMON COUNCIL. THE SAID ORDINANCE, THEREFORE, IS ENTITLED TO BE READ IN EVIDENCE. (CODE OF CIVIL PROCEDURE, § 941; OLD CHARTER, § 44, AS AMENDED BY L. 1905, CH. 191.)

THOMAS E. WHITE

CITY CLERK

Rochester, N. Y., Nov. 4th, 1905

MUNICIPAL CODE

OF THE

CITY OF ROCHESTER

LICENSED OCCUPATIONS

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MUNICIPAL CODE OF THE CITY OF ROCHESTER

VOL. II—PART FIRST—TITLE I—PENAL ORDINANCES

Passed October 11th, 1904

BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF ROCHESTER AS FOLLOWS:

CHAPTER II

LICENSED OCCUPATIONS

- Article I. Occupations Requiring Licenses
- Article II. Authority Issuing Licenses
- Article III. License Fees
- Article IV. Bonds Required
- Article V. Regulations as to Occupations
- Article VI. Penalties and Repeals

ARTICLE I

OCCUPATIONS REQUIRING LICENSES

Without having procured a license as required by this ordinance no person shall carry on any business herein named within the city of Rochester:

Section 1. **Of auctioneer**, which shall be construed to cover the sale of any personal property at auction, except by virtue of a court judgment or order, or of a mortgage.

§ 2. **Of billiard room or bowling alley keeper**, which shall be construed to cover the keeping of any billiard or pool table or bowling alley for revenue.

§ 3. **Of bill posting and distributing or sign advertising**, which shall be construed to cover the act of going upon any of the public streets or into residences or places of business for the purpose of circulating advertisements of any kind, or posting or painting advertisements of any nature whatsoever, except notices required by law.

§ 4. **Of hackman or cartman**, which shall be construed to cover the carrying of persons or personal property by any vehicle for hire.

§ 5. **Of junk dealer**, which shall be construed to cover the buying and selling of junk, rags, old metals, bottles, glass, bones, tinware or rope.

§ 6. **Of lunch wagon man**, which shall be construed to cover the sale of lunch from wagons in the streets.

§ 7. **Of peddling newspapers or blacking boots** in any public street or place.

NOTE—As to sale of newspapers by children in cities of second class, see Labor Law, §§ 174-179a, as amended L. 1903, Ch. 151, L. 1905, Ch. 519.

§ 8. **Of pawnbroker**, which shall be construed to cover the loaning of money by any person on deposit or pledge of personal property other than securities or evidences of indebtedness or the purchase of personal property on condition of selling the same back to a person at a stipulated price, or doing business as furniture storage warehouseman and loaning money upon goods, wares or merchandise so pledged or deposited at collateral security.

§ 9. **Of peddler or huckster**, which shall be construed to cover the act of selling or offering for sale any provisions or merchandise at retail within any public street or place or from house to house.

§ 10. **Of showman**, which shall be construed to cover the exhibition of any circus, theatrical representation or public show of any kind, or permitting any place to be used for such purposes.

§ 11. **Of stationary engineer**, which shall be construed to cover the operation of any boiler to generate steam, except for railroad locomotive engines and for heating purposes in private dwellings.

NOTE—General authority is found to require licenses for the above occupations in the city charter, Vol I, Municipal Code, p. 24 (White Charter, § 12); special authority is found, id., pp. 45-55 (Old Charter, § 40).

In addition to the provisions above set forth, the following occupations are regulated by state law:

1. Auctioneers—Domestic Commerce Law, §§ 50-54; Penal Code, §§ 443, 574; L. 1905, Ch. 162.

2. Barbers—L. 1903, Ch. 632

3. Chauffeurs—"Motor Vehicle Law," L. 1904, Ch. 538.

4. Dentists—Public Health Law, §§ 160-169d

5. Druggists—Penal Code, §§ 401-405 b; Public Health Law, §§ 190-201, as amended L. 1904, Ch. 554.

6. Embalmers and Undertakers—L. 1898, Ch. 555, as amended L. 1904, Ch. 498, L. 1905, Ch. 572.

7. Employment Agencies—L. 1904, Ch. 432.

8. Horseshoers—Labor Law, §§ 180-184.

9. Junk Dealers—L. 1903, Ch. 308; Penal Code, §§ 290, Subdiv. 6, 354, 371, 550.

10. Lawyers—Code Civil Procedure, Chap. I, Tit. II, Art. 2.

11. Midwives—(Special act as to Rochester), L. 1895, Ch. 842.

12. Milk Dealers and Food Sellers—Agricultural Law, Public Health Law, Domestic Commerce Law, Penal Code.

13. Newsboys—Labor Law, §§ 174-179a, as amended L. 1903, Ch. 151, L. 1905, Ch. 519.

14. Nurses—Public Health Law, §§ 206-209, added L. 1903, Ch. 293; Code Civil Procedure, §§ 834, 1030.

15. Pawnbrokers—See note this chapter, § 37, p. 25.

16. Peddlers—Domestic Commerce Law, §§ 60-65; Penal Code, § 384 e; L. 1905, Ch. 162.

17. Physicians—Public Health Law, §§ 140-160, as amended L. 1905, Ch. 455; Code Civil Procedure, §§ 834, 1030.

18. Plumbers—General City Law, §§ 40-57.

19. Saloonkeepers—Liquor Tax Law.

20. Veterinaries—Public Health Law, §§ 170-179 e.

For the protection of the public health authority is given the health bureau to license physicians, midwives, undertakers, scavengers, garbage collectors, ice dealers and milk dealers. For provisions thereupon see Penal Ordinances, Chapter III, "Public Health." **For the benefit of the police pension fund** the keepers of bowling alleys, pool and billiard tables must be

licensed by the commissioner of public safety—L. 1887, Ch. 614, § 2, as amended L. 1905, Ch. 540. Permission of the said commissioner is also necessary to **quarry stone** within the city—See Penal Ordinances, Chapter 4, "Public Safety and Good Order," § 36; and of the commissioner of public works to erect **poles** in streets, Ordinance, Oct. 10, 1905.

ARTICLE II

AUTHORITY ISSUING LICENSES

Licenses shall be issued by the following authority:

§ 12. **By the mayor** for auctioneers, bill posters, hackmen and cartmen, junk dealers, lunch wagon men, pawnbrokers, peddlers and showmen.

§ 13. **By the commissioner of public safety** for keepers of billiard or pool tables and howling alleys.

NOTE—See police pension fund act, as amended L. 1905, Ch. 540, giving authority to the commissioner of public safety over licenses of bowling alleys and billiard rooms.

§ 14. **By the chief of police** for newsboys and bootblacks.

NOTE—As to licensing children to sell newspapers, see Labor Law, §§ 174-179a, as amended, L. 1903, Ch. 151, L. 1905, Ch. 519, which amendment requires a permit from the board of education in cities of the first and second classes. This act, however, does not

cover permits for girls, or for boys over fourteen years of age, or for bootblacks.

§ 15. **By an examining committee**, appointed by the mayor, for stationary engineers.

The powers herein granted as to the issuing of licenses is discretionary, and is to be exercised as may seem for public good. All licenses not stated to be temporary on the face thereof shall expire December the 31st after issue, and no license shall be transferred without written consent of the granting authority. The city clerk shall countersign all licenses granted by the mayor.

NOTE—Any license may be revoked summarily for violation of ordinance, Old Charter, § 43, as amended L. 1905, Ch. 191.

ARTICLE III

LICENSE FEES

Fees are fixed for licenses and shall be paid to the treasurer of the city of Rochester as follows (per year unless otherwise stated):

§ 16. **Auctioneers**, fifty dollars.

§ 17. **Billiard room and bowling alley keepers**, five dollars each for the first two billiard or pool tables or bowling alleys and two dollars for each table or alley more than two.

NOTE—See police pension fund act as amended L. 1905, Ch. 540.

§ 18. **Bill posters and sign advertisers** one hundred dollars.

§ 19. **Hackmen and cartmen**, one dollar for each vehicle used in said business.

§ 20. **Junk dealers**—

Class A. Twenty-five dollars, and an additional fee of five dollars for each wagon employed, when the business is not conducted solely with wagon or push cart.

\$ 3.00 Class B. Ten dollars, when the business is conducted solely with horse and wagon.

\$ 1.00 Class C. Five dollars, when the business is conducted solely by means of a push cart.

§ 21. **Lunch wagon men**, fifty dollars per wagon.

§ 22. **Newsboys and bootblacks**, twenty-five cents for badge.

See note, this ordinance, under § 14, p. 6.

§ 23. **Pawnbrokers**, one hundred dollars.

§ 24. **Peddlers and hucksters**, five dollars, and for each vehicle more than one, five dollars additional.

Amended

§ 18. Bill posters and sign advertisers
twenty dollars. (*As amended Nov. 9, 1904*).

§ 25. **Showmen—**

Subdivision (a). For every place wholly devoted to the purposes of a museum or theatrical representations, fifty dollars.

Subdivision (b). For every circus seventy-five dollars for a single performance, or five hundred dollars per year, and at that rate for quarterly periods of the year. (*As amended June 13, 1905*).

Subdivision (c). For every building or place temporarily used for the exhibition of natural or artificial curiosities, or other attractions, five dollars per day.

Subdivision (d). For every theatrical representation, concert, lecture, or other public entertainment to which an admission fee is charged not wholly conducted by a local society, and not conducted upon premises licensed under subdivision (a) herein, the sum of ten dollars for each performance.

Subdivision (e). For every place operated under a license for the sale of liquors at retail, in which or connected with which, theatrical representations, athletic or other exhibitions are given, the sum of one hundred dollars per year.

Subdivision (f). For merry-go-rounds, shooting galleries and other places of amusement not

herein provided for, such fee as the mayor may deem proper.

§ 26. **Stationary engineers**, two dollars for original license and one dollar for renewals.

In addition to the fees fixed herein the city clerk shall collect for the city of Rochester one dollar for each metal sign bearing year, license number and name of business issued under this ordinance. No license shall issue until the person applying for the same shall present the city treasurer's receipt for the payment of the fees fixed herein. The said fees shall be reduced proportionately to the amount of time of 1904 already expired for all licenses, not temporary in nature, issued prior to January 1, 1905.

NOTE—The common council by ordinance passed March 14, 1905, (proceedings of the common council, 1905, p. 124), adjusted all licenses fees for 1904 and 1905, so that injustice would not result by reason of the fact that the licenses then existing expired on different dates.

ARTICLE IV

BONDS REQUIRED

Before any license herein authorized shall be issued there shall be executed to the city of Rochester, bonds in the penal sums stated be-

low, with sureties to be approved by the mayor, conditioned for the faithful observance of the laws of the state of New York and the ordinances of the common council now or hereafter enacted, as follows:

§ 27. **Auctioneers**, five hundred dollars.

§ 28. **Bill posters**, five hundred dollars.

§ 29. **Pawnbrokers**, one thousand dollars.

NOTE—As to guarantors and sureties see L. 1881, Ch. 486; L. 1893, Ch. 720, as amended L. 1895, Ch. 178.

ARTICLE V.

OCCUPATIONS REGULATED

Within the city of Rochester occupations are regulated as follows:

§ 30. **Auctioneers**—No auctioneer shall

Subdivision (a). Make any false representations as to the character, quality or ownership of any personal property offered for sale.

Subdivision (b). Substitute any other article for the article sold to a bidder.

Subdivision (c). Bid in any personal property offered for sale by himself, and no person shall act as accomplice or "capper" for the purpose of making mock bids at any auction.

Subdivision (d). Sell or expose for sale, property upon any sidewalk, or in any public street, without the written permission of the mayor.

Subdivision (e). Employ a bellman, crier, instrument of music, or means of attracting the attention of passers by, other than a sign or flag, which shall bear the license number.

NOTE—At no time in New York state has it ever been lawful for citizens generally to act as auctioneers. The history of licensing and regulating auctioneers in this state is given by Ruger, C. J., in *People ex rel. Schwab vs. Grant*, 126 N. Y. 473. Fraudulent sale at mock auction forfeits license and forever disqualifies, Penal Code, § 574. Veterans may procure a license without cost, L. 1905, Ch. 162.

§ 31. Billiard room and bowling alley keepers—

Subdivision (a). Shall not permit any such game to be played upon Sunday, or permit any person under eighteen years of age to play.

Subdivision (b). Shall be recorded by the chief clerk in the department of public safety.

NOTE—See police pension fund act as amended, L. 1905, Ch. 540.

§ 32. Bill posters and sign advertisers—

Subdivision (a). Shall wear conspicuously a metal badge bearing the license number and

the words "licensed advertiser" and shall procure and exhibit in a conspicuous place upon every vehicle used in said business a metal sign, issued annually by the city clerk, bearing the year, license number and name of business.

Subdivision (b). Shall not place an advertisement upon any sidewalk, hydrant, lamp-post, tree, telephone, telegraph or electric light-pole or public building.

Subdivision (c). No person shall distribute free drugs or medicines without the written consent of the mayor, or scatter circulars or advertising matter about the streets.

Subdivision (d). No person shall erect any bill board more than six feet in height without permission of the bureau of buildings and combustibles. Every applicant for permission to erect such a bill board is required to give one week's notice in writing, personally or by mail, of such application to the owners, occupants or agents of all houses and lots within a distance of one hundred feet from where such bill board is to be erected. No such application shall be considered by said bureau without verified proof of the service of the notice herein described, or the written consent of such owners, occupants or agents, to the erection of said bill board.

Subdivision (e). The mayor may grant permission in writing to any religious corporation to advertise meetings called for divine worship, or to any person residing and transacting business in said city to distribute advertisements from house to house, or store to store, advertising the business in which said person is directly engaged.

NOTE—The power to regulate the use of streets confers ample authority to regulate bill boards—*Gunning System vs. Buffalo*, 62 App. Div. 497; 75 App. Div. 31. Power of the common council of the city of Rochester to regulate bill boards sustained—*City of Rochester vs. West*, 164 N. Y. 510, affirming 29 App. Div. 125. Mayor may grant permits for erection in streets of booths, arches, banners, etc., for other than advertising purposes, General City Law, § 12.

§ 33. **Hackmen and cartmen—**

Subdivision (a). Shall not demand or receive higher rates than the following:

For vehicles for the *transportation of persons*—

For transporting one person one mile or less, fifty cents, and for each additional person, twenty-five cents.

For transporting one person for any distance over one mile and less than two miles, seventy-

five cents, and for each additional person, twenty-five cents.

For transporting one person over two miles and less than three miles, one dollar, and for every additional mile over three miles, fifty cents, and for each additional person, one-half the regular rate.

For the use of any such vehicle by the day, not more than nine hours, not exceeding ten dollars.

For the use of any such vehicle by the hour for one or more persons, with the privilege of going from place to place and stopping as often as may be required, one dollar and fifty cents an hour.

Distance shall be measured by the most directly traveled route, and in all cases when at the time of hiring any such vehicle, the hiring is not specified to be by the day or the hour, it shall be deemed to be by the mile.

Every person shall be allowed to have transported without extra charge on said vehicle one trunk, valise or other piece of baggage usually used in traveling but for every extra trunk more than one, the driver of said vehicle shall be entitled to demand and receive the sum of twenty-five cents.

For vehicles used for the *transportation of personal property*, including loading and unloading of the same—

For transferring or delivering from railroad stations baggage usually used in traveling, twenty-five cents for each trunk, valise or other piece when the distance is one mile or less, and twenty-five cents per piece for every additional mile.

For transporting household furniture not more than two miles, one dollar per one horse load, and twenty-five cents extra for each additional mile more than two miles, and twenty-five cents an hour additional for the services of each man besides the driver. For transporting each full sized two horse load of household furniture not more than two miles, including services of two men, three dollars and one-half. In addition to the rates chargeable hereunder for the transfer of household furniture, a reasonable sum may be charged for loading and unloading the same not exceeding fifty cents per flight of stairs, down or up which said furniture may be carried. For the use of large furniture vans by the hour, including all necessary help, two dollars.

For transporting any other personal property besides baggage and household furniture, for each load not exceeding two hundred pounds in weight one mile or less, twenty-five cents, and twenty-five cents extra for every additional mile. For loads over two hundred pounds in weight one mile or less, fifty cents for every five hundred pounds or fraction thereof, and half the regular rate for every additional mile. An additional charge of twenty-five cents an hour may be made for the services of each extra man necessarily employed in handling heavy loads.

Subdivision (b). Shall keep a card or book containing a printed statement of the rates chargeable hereunder, and the driver of every vehicle so licensed shall carry and furnish on demand a copy thereof.

Subdivision (c). Shall procure and exhibit in a conspicuous place on every vehicle used for the transportation of personal property which shall stand for employment in any public street a metal sign, issued annually by the city clerk, bearing the year, license number and name of business.

Subdivision (d). Shall not wait for employment in any public street without the con-

sent of the owner of the adjacent property and the commissioner of public works, and under such conditions as said commissioner may impose.

Subdivision (e). While waiting for employment, shall go to any part of the city for the purpose of transporting persons or personal property, upon reasonable demand, when tendered the compensation fixed herein.

Subdivision (f). While waiting for employment in any place shall not engage in disorderly conduct or obstruct any sidewalk.

NOTE—Ordinances sustained licensing public vehicles, see cases cited, McQuillin's Municipal Ordinances, § 424.

§ 34. Junk dealers—

Subdivision (a). Of section 20, Class A, herein, must be citizens of the United States, and every license granted in said class shall designate the place in which the person shall be authorized to carry on said business, and it shall not be conducted at any other place than the one so designated.

Subdivision (b). Shall not receive or purchase any article whatever from any person under the age of eighteen years, or from any

person between sunset and seven o'clock in the morning.

Subdivision (c). Shall keep a record of the name and a full description of every stranger from whom any article is bought, and shall file daily with the chief of police a statement in writing showing when, where and from whom were purchased all pigs of metal, copper wire, brass car journals and similar articles received within twenty-four hours immediately preceding the delivery of such report; the contents of such report shall not be communicated to any person for the purpose of publication, but shall be used expressly for the purpose of protecting the public; and all articles described therein shall be kept in separate packages and not sold or broken up for five days after such report.

Subdivision (d). Shall not conduct the business of a pawnbroker, nor shall any pawnbroker receive a license as a junk dealer.

Subdivision (e). Shall have and keep a sign in front of the place of business, on which shall be set forth in conspicuous letters and figures the name, business and number of license.

Subdivision (f). When engaged in soliciting, purchasing or receiving any of the articles

mentioned herein, shall wear a conspicuous metal badge, which shall contain in legible figures the words "licensed junk dealer," and the number of the license, and shall procure and exhibit in a conspicuous place on every vehicle used in said business a metal sign, issued annually by the city clerk, bearing the year, license number and name of business.

NOTE—Junk dealers are regulated in New York state by statute, L. 1903, Ch. 308. Purchasing junk from child under sixteen a misdemeanor, Penal Code, § 290, as amended L. 1903, Ch. 309; receiving junk without proper inquiry a misdemeanor, id., § 550, as amended, L. 1903, Ch. 326; refusing to exhibit stolen property, id., § 354; secreting stamped bottles, id., § 371.

§ 35. **Lunch wagon men**—Shall occupy only such places in the public streets as the commissioner of public works may permit, and shall procure and exhibit in a conspicuous place on every wagon used in said business a metal sign issued annually by the city clerk, bearing the year, license number and name of business.

§ 36. **Newsboys and bootblacks**—

Subdivision (a). May be licensed by the chief of police to black boots or peddle newspapers in any public street or place upon the assurance of the parent or guardian, or some

other responsible person, that the applicant is of suitable age and good character; said license may be revoked by the chief at pleasure.

Subdivision (b). Shall be supplied by the chief of police with a metal badge bearing the license number, to cover the cost of which the applicant shall pay a fee of twenty-five cents, which amount shall be refunded at any time upon return of said badge. No person shall black boots or peddle newspapers in any public street or place without wearing said badge in a conspicuous place on the breast. The chief of police shall keep a record of the name, address and license number of each person so licensed.

Subdivision (c). Shall not black boots or sell newspapers on Sunday within two hundred feet from any church or place of worship.

Boys under ten and girls under sixteen years of age cannot sell newspapers in cities of first and second classes and boys between ten and fourteen must obtain permit from board of education—Labor Law, § § 174-179a, as amended L. 1903, Ch. 151, L. 1905, Ch. 519.

§ 37. Pawnbrokers—

Subdivision (a). Shall report daily in writing to the chief of police, on blank forms to be furnished by the police department, a description of all articles received by said pawnbroker

within the twenty-four hours immediately preceding the delivery of such report, and a description of the person making the pledge. The contents of such report shall not be communicated to any person for the purpose of publication, but shall be used expressly for protecting the public. No person shall make any false entry in such report, and whenever the chief of police shall notify any pawnbroker not to sell or permit to be redeemed any property so received on deposit, such property shall not be sold or be permitted to be redeemed until the said chief shall so direct.

Subdivision (b). Shall keep a book in which shall be written legibly in ink, at the time any loan is made, an account and description of the articles pawned, the amount of money loaned thereon, the time of pawning the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning said personal property. The said book shall be opened at all reasonable times to the inspection of the mayor, police justice, chief of police, or any person duly authorized in writing by any of them for that purpose. Every pawnbroker, at the time any loan is made, shall deliver to the person pawning any personal property a mem-

Subdivision (c). No pawnbroker within said city shall demand or receive any greater interest than the following rates per month or fraction of a month: Ten per cent on all sums from one to twenty-five dollars; seven per cent on sums from twenty-five to fifty dollars; six per cent on sums from fifty to seventy-five dollars; five per cent on sums from seventy-five to one hundred dollars; and three per cent on all sums over one hundred dollars. No other interest or charges shall be demanded or received except charges for insurance where persons desire to insure their pledges. (*As amended Nov. 9, 1904*).

orandum signed by him, containing the substance of the entry herein required to be made in his book, and no charge shall be made by any pawnbroker for such entry or memorandum.

Subdivision (c). No pawnbroker shall ask, demand or receive any greater rate of interest than three per cent per month, or any fraction of a month, for the first six months, and two per cent per month for each succeeding month, upon any loan exceeding the sum of one hundred dollars; or two per cent per month for the first six months, and one per cent per month for each succeeding month, on any loan exceeding the sum of one hundred dollars.

Subdivision (d). Shall cause to be posted in a conspicuous part of the place where said business is carried on a sign bearing in large type, in the English and German languages, the rates allowed to be taken by this ordinance.

Subdivision (e). Shall not sell any article received in pledge before the time to redeem the same has expired, nor willfully disclose the name of the purchaser and the price paid for any article sold, and shall not sell any pawn or pledge until the same shall remain in pawn six months.

Subdivision (f). Shall exhibit any goods claimed to be stolen during the usual business

hours to the owner of said goods, or his authorized agent, on the written order of the chief of police.

Subdivision (g). Shall not transact business as a pawnbroker except between the hours of eight o'clock a. m. and eight o'clock p. m., excepting Saturdays, when business may be transacted between the hours of eight o'clock a. m. and twelve o'clock midnight; and shall not transact said business upon Sunday.

Subdivision (h). Shall not receive any personal property in pledge from a minor, intoxicated person, habitual drunkard or thief, known by him to be such, nor employ any person as an assistant in said business who is under sixteen years of age.

Subdivision (i). Shall not carry on said business in any other place than that indicated in the license.

Subdivision (j). Shall be liable to any person damaged by the misconduct of said business and, after the return unsatisfied, either in whole or in part, of any execution issued upon any judgment so obtained against a pawnbroker, such person may maintain an action in his own name to recover the amount then due upon the

bond of said pawnbroker in any court having jurisdiction of the amount claimed, provided said court shall, upon application made for that purpose, grant such leave to prosecute.

NOTE—Act concerning pawnbrokers, L. 1883, Ch. 339 (applies to cities over 200,000), amended L. 1884, Ch. 363; L. 1890, Ch. 240; L. 1903, Ch. 538. Act to provide for incorporation of pawnbrokers, L. 1895, Ch. 326; amended L. 1895, Ch. 706; L. 1896, Ch. 206; L. 1902, Ch. 78 (does not apply to Monroe or Westchester Counties). Carrying on the business of pawnbroker without a license a misdemeanor, Penal Code, § 353; hours when business may be transacted, Penal Code, § 355; refusal to exhibit stolen goods a misdemeanor, Penal Code, § 354; selling goods before time expires a misdemeanor, *id.*, § 355. Pawnbroker defined, see cases in note, p. 774, McQuillin's Municipal Ordinances; also, *id.*, § 492.

§ 38. Peddlers and hucksters—

Subdivision (a). Shall procure and exhibit in a conspicuous place on every vehicle used in their business a metal sign, issued annually by the city clerk, bearing the year, license number and name of business.

Subdivision (b). Shall be subject to all of the restrictions now or hereafter imposed by the market ordinances, and shall not use any of the public streets or public places within this city as standing places for teams or wagons for the con-

duct of their business. (*As amended July 11, 1905,*

Subdivision (c). Shall not cry out or make loud noises in any public street for the purpose of selling any provisions or merchandise.

Subdivision (d). Shall not falsely or fraudulently misrepresent the quality, character or quality of any articles offered for sale; nor offer for sale any unwholesome, tainted or diseased provisions or merchandise.

Subdivision (e). Nothing in the penal ordinances of the city of Rochester relating to licensed occupations, adopted October 11th, 1904, shall be construed so as to prevent any person having an established place for the transaction of business within said city, from soliciting orders from customers and filling the same, nor so as to prevent the sale of newspapers. (*As amended June 27, 1905*).

NOTE—Peddlers in New York state regulated by statute, Domestic Commerce Law, § § 60-65. Who are peddlers—Village of Stamford vs. Fisher, 63 Hun 123; affirmed 140 N. Y. 187, distinguishing Bradley vs. Rochester, 54 Hun 140; People vs. Jarvis, 19 App. Div. 466. Regulations as to peddlers must be reasonable, City of Buffalo vs. Schleifer, 2 Misc. 216. To peddle without license a misdemeanor, Penal Code, § 384e. Veterans may procure a license without cost, L. 1905, Ch. 162. Common council may regulate sale of goods

from canal boats, General City Law, § 8. Farm produce, except hay and straw, can be sold by producer without license in cities of second class, except Rochester, General Municipal Law, § 28, added by L. 1901, Ch. 389.

§ 39. **Showmen**—Shall not give any theatrical representation, circus or other show on Sunday.

NOTE—Theatrical performances on Sunday forbidden, Penal Code, § 277; *Nuendorff vs. Duryea*, 69 N. Y. 557; 25 Am. Rep. 235, note; *People vs. Hoym*, 20 How. Pr. 76. What shows are subject to regulation generally—*Thurber vs. Sharp*, 13 Barb. 627; *Mayor, etc. of New York vs. Eden Musee American Co.* 102 N. Y. 593; *Society for Reformation, etc., vs. Neusbach*, 16 Weekly Digest 349; *Downing vs. Blanchard*, 12 Wend. 383; *People vs. Royal*, 23 App. Div. 258. Child under sixteen not to appear in theatrical performances without consent of mayor, Penal Code, § 292.

§ 40. **Stationary engineers**—

Subdivision (a). Shall be licensed by a committee of three competent persons appointed by the mayor.

Subdivision (b). Shall apply for examinations hereunder to the city clerk, in writing, stating the location and capacity of the boiler plant the applicant intends to operate. Every application must be accompanied by a certificate of two reputable persons to the effect that the

applicant is of temperate habits and good character.

Subdivision (c). Examining committee shall hold meetings whenever deemed advisable, but at least twice each month, and the city engineer shall furnish them with a suitable room and the necessary stationery. Two of said committee shall constitute a quorum for the transaction of business, and it shall have power to make and enforce such rules and regulations, not inconsistent herewith, as shall be necessary for the proper conduct of said examinations. The examination of each applicant shall have reference to his qualifications to operate the boiler plant described in his application. In case any applicant upon his first examination shall fail to satisfy the committee of his ability to operate the boiler plant mentioned in his application, a temporary permit may be granted to him to operate said plant for a period not exceeding twenty days, at which time the applicant shall again present himself for examination. Such temporary permit shall not be granted more than once to the same person. The said committee shall keep a record of its proceedings, including the name and address of every applicant and the result of all examinations.

Subdivision (d). Examinations shall be reported to the city clerk, who shall keep in his office a record of the examination, date of issuing license, or date of refusal, name of the employer and location of the boiler plant the applicant intends to operate, of all licensed stationary engineers.

Subdivision (e). When changing position and taking charge of a different boiler plant than the one specified in license, shall, within one week thereafter, notify the city clerk of such change and be examined as to qualifications for operating such different boiler plant, and if found qualified a license to operate the new plant for the unexpired portion of the year covered by original license shall be issued without further fee. Every license granted hereunder shall be kept displayed conspicuously in the boiler room where the person licensed shall be engaged at work.

Subdivision (f). Licenses issued hereunder may be revoked or suspended, at any time, by the common council by a vote of a majority of the members present at the meeting and voting upon the report of any two practical engineers stating the ground upon which such license should be revoked or suspended, and where such

license shall have been revoked, as aforesaid, another license shall not, in any case, be issued to the same person within six months from the date of revocation.

NOTE—The issuing and revoking of stationary engineers' licenses authorized by Old Charter, § 40, subdivision 31, printed in Vol. I, Municipal Code, p. 54.

ARTICLE VI

PENALTIES AND REPEALS

§ 41. **Penalties**—A violation of this ordinance shall be punishable by a fine not exceeding one hundred fifty dollars, or by imprisonment not exceeding one hundred fifty days or by both such fine and imprisonment, or by a penalty not less than five dollars nor more than five hundred dollars to be recovered by the city of Rochester in a civil action. (*As amended June 13, 1905, which amendment was made necessary by L. 1905, Ch. 191, § 3*).

§ 42. **Repeals**—All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

The following ordinances, and all amendments thereto, are hereby specifically repealed:

An ordinance relating to auctioneers, passed April 14, 1896.

An ordinance relating to bill posting and bill boards, passed December 22, 1896.

An ordinance relating to public vehicles, passed May 11, 1897.

An ordinance relating to junk dealers, passed April 14, 1896.

A resolution relating to night lunch wagons passed March 14, 1893.

An ordinance relating to newsboys and boot-blacks, passed May 26, 1896.

An ordinance relating to hucksters and milkmen, passed July 17, 1900.

An ordinance relating to pawnbrokers, passed May 11, 1897.

An ordinance relating to peddlers, passed April 14, 1896.

An ordinance relating to public entertainments, passed May 11, 1896.

An ordinance relating to stationary engineers, passed May 26, 1896.

§ 43. **When in effect**—This ordinance shall take effect immediately.

GENERAL NOTE ON ORDINANCES—Numerous New York cases on the subject of municipal ordinances are cited in Abbott's New York Cyclopaedia Digest under "Municipal Corporations," Vol. IX, pp. 801-1143; see also article on "Ordinances," Am. and Eng. Enc. Law, 2d edn., Vol. XXI, pp. 943-1004. **Authorities collated as to the proper exercise of police power**—Village of Carthage vs. Frederick, 122 N. Y. 268; **ordinances have the force of statutes**—Village of Carthage vs. Frederick, *supra*; City of Buffalo vs. N. Y. L. E. & W. R. R. Co. 152 N. Y. 276, (1897); People ex rel. Cumisky vs. Wurster, 14 App. Div. 556, (1897); **and cannot be collaterally impeached**—Consumers' Gas Co. vs. Congress Spring Co., 61 Hun 133, (1893); **may be partly void**—Duryee vs. Mayor, 96 N. Y. 477, (1884); **must be reasonable**—Village of Carthage vs. Frederick, *supra*; City of Brooklyn vs. Nassau El. R. R. Co., 38 App. Div. 365, (1899); City of Buffalo vs. Collins Baking Co., 39 App. Div. 432, (1899); **reasonable as to one state of facts may be unreasonable as to another**—Ford vs. Standard Oil Co., 32 App. Div. 596 (1898); **publication essential to validity**—Kneib vs. People, 6 Hun 238; **must apply to citizens of all parts of state alike**—General Municipal Law, § 27; **contracts in violation of, are void**—Burger vs. Koelsch, 77 Hun 44, (1894); **general statute on same subject does not render void**—Polinsky vs. People, 11 Hun 390, (1877); **repeal revives former**—Mayor vs. Broadway, etc. Ry. Co., 97 N. Y. 275, (1884); **rules have not the force of**—Armatage vs. Fisher, 74 Hun 167; **if the common council authorizes a nuisance by, the city becomes liable**—Spier vs. City of Brooklyn, 139 N. Y. 6; Landau vs. New York, 180

N. Y. 48, *Cohen vs. New York*, 113 N. Y. 532; extent of the words "to license and regulate"—*Cronin vs. People*, 82 N. Y. 318; *City of Buffalo vs. Schleifer*, 51 St. Rep. 58; *City of Brooklyn vs. Nodine*, 26 Hun 512. As to ordinances generally see "The Law of Municipal Ordinances," by Eugene McQuillin (Chicago, Callaghan & Co., 1904).

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