

Chapter 111

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Liberty 9-12-1991 by L.L. No. 2-1991. Amendments noted where applicable.]

§ 111-1. Purpose.

The purpose of this chapter is to preserve and care for the safety, health, comfort and general welfare of the inhabitants of the Town of Liberty or visitors thereto by the regulation of peddling, hawking, vending and soliciting orders from new customers by going from house to house and acting as a transient merchant or transient merchant-peddler, as hereinafter defined.

§ 111-2. Definitions.

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

BOARD — The Supervisor and the Town Board of the Town of Liberty.

PEDDLER — A person, commonly referred to either as a "peddler" or a "hawker," who goes from place to place by traveling on the street or from house to house and carries with him or her goods, wares, merchandise, foods and food products for the purpose of selling and delivering them to consumers.

PERSON — An individual, firm, partnership, corporation, voluntary association or incorporated association, or agent or employee thereof.

SOLICITING ORDERS — The act of going from house to house to solicit orders from new customers, and shall be applicable only to goods which originate within the State of New York.

TRANSIENT MERCHANT — A person, commonly referred to as a "transient merchant" or an "itinerant vendor," who engages or proposes to engage temporarily in merchandising business in this municipality and occupies a room, business, tent, lot, stand or other premises for the purpose of selling goods, wares and merchandise.

TRANSIENT MERCHANT-PEDDLER — A person who engages in business in the manner defined by "transient merchant" and, in pursuance thereof, becomes a peddler or hires a peddler as defined by "peddler."

§ 111-3. Prohibited solicitations.

No person or persons shall hereafter upon the public highways within the Town of Liberty, New York, with intent to solicit or interest another in the rental or sale of any apartment, room, hotel, house, bungalow, business or enterprise, commit any of the following acts:

- A. Display any sign or other advertising matter on or near a stationary vehicle or at or near their person.

B. Solicit, obstruct, annoy, disturb or interfere with pedestrians.

§ 111-4. License required.

It shall be unlawful for any peddler, transient merchant and transient merchant-peddler to sell or dispose of or to offer to sell or dispose of any goods, wares or merchandise within the Town of Liberty without first obtaining a license and having paid the license fee hereinafter prescribed.¹

§ 111-5. Exemptions.

A. The requirements of this chapter shall be held not to include the following persons who are expressly exempt from its application:

- (1) The peddling of meats, fish, fruit and farm products by farmers and persons who produce such commodities.²
- (2) The holder of a license granted pursuant to § 32 of the General Business Law.
- (3) Nonprofit and charitable organizations, including their representatives, agents and employees.
- (4) Any person soliciting at the express invitation of the person solicited or serving an established customer.
- (5) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town.
- (6) Auction sales held pursuant to law by a Sheriff or other officer authorized by law to conduct such sale.
- (7) Garage sales or similar sales by homeowners of their own property sold on their home premises for a period of not more than two days.

B. This chapter shall not apply so as to interfere unlawfully with interstate commerce.

§ 111-6. Application information.

Any person desiring a license shall file with the Town Clerk an application blank, separate blanks being provided for each of the three classes of licenses. The blanks shall contain the following information and must be under oath:

A. For all license classes:

- (1) The name of the applicant
- (2) The permanent home residence of the applicant.
- (3) The name and address of the firm represented and the names and addresses of the

1. Editor's Note: A fee schedule is located in Chapter A152, Fees.

2. Editor's Note: Former Subsection A(2), dealing with honorably discharged members of the armed forces, which immediately followed this subsection, was repealed 7-8-1996 by L.L. No. 4-1996.

- persons from whom goods making up the stock were or are to be purchased.
- (4) Three business references.
 - (5) The place or places of residence of the applicant for the preceding three years.
 - (6) The length of time for which the license is desired.
 - (7) A description of the wares to be offered for sale.
 - (8) The number either of arrests or convictions for misdemeanors or crimes and the nature of the offenses for which arrested or convicted.
 - (9) Appended to the application, a letter from the firm for which the applicant purports to work, authorizing the applicant to act as its representative, and a copy of the New York State sales tax vendor's authorizations.
- B. For transient merchant licenses, in addition to the foregoing items, the application shall show:
- (1) A sworn statement of the selling price, average quality or kind and value of the goods to be offered for sale.
 - (2) A statement of the location of such goods by street or number, and whether on the premises from which it is sold or in a warehouse.
- C. For transient merchant-peddler licenses, in addition to the foregoing information, the application must show:
- (1) The names and addresses of each peddler in the Town of Liberty acting for said merchant.
 - (2) Three personal references for each peddler.
 - (3) For each peddler, the number either of arrests or convictions for misdemeanors or crimes and the nature of the offenses for which arrested or convicted.

§ 111-7. Verification of license information; nontransferability.

- A. Following the filing of the application, the Town Clerk or the Code Enforcement Officer shall verify the information respecting the applicant and shall signify his or her approval or rejection on the reverse side of the form. Upon verification of the application and payment of the prescribed fee, the license shall be issued by the Town Clerk.
- B. For all license classes, the license issued shall not authorize any person, except the designated person named in said license, to engage in business thereunder. Said license shall not be transferable from the person to whom issued to any other person.
- C. A separate license must be obtained by a licensed peddler for every agent or employee working for the peddler. A separate license must be obtained by a licensed transient merchant for each branch or separate place of business in the Town of Liberty in which the transient merchant's business is conducted, and each license shall authorize the person to conduct business only at the location which is indicated therein.

§ 111-8. Form of license; filing; records.

- A. All licenses shall be issued on forms drawn in accordance with this chapter. They shall be printed in book form, with corresponding stubs, and shall be consecutively numbered. The license shall contain suitable blank spaces for writing in the name, the class of license granted, the location of the business and the amount of fee paid.
- B. There shall be kept in the office of the Town Clerk the necessary books for recording the time the application for a license is received, showing its class, whether new or renewal, the name of the licensee, the regular number of the blank form, when the application was approved by the Town Clerk or Code Enforcement Officer, the amount of fee received therefor and the date when the license was issued.
- C. The Town Clerk shall monthly file a report with the Board showing the number of licenses granted by classes and the amount of fees received therefor. Each report shall state the number and class of licenses suspended or revoked. The monthly report shall be cumulative during the course of the year so that each report summarizes the action of all preceding months of the current year.

§ 111-9. Display of license; decal for vehicles.

- A. Every person holding a license under this chapter shall be required to carry the license with him or her at his or her business premises while engaged in the business licensed. The person must produce the license at the request of any official of the Town and of any person of the Town with whom he or she wishes to conduct his or her said business.
- B. To every peddler granted a license, the Town Clerk shall issue a decal bearing the words "Licensed Peddler, Town of Liberty," together with the number of the license and the year for which it is issued. All automobiles, wagons, carts or other vehicles used for peddling shall have affixed thereon said decal. A transient merchant and a transient merchant-peddler must post a license certificate in a prominent place in his or her business premises.

§ 111-10. Restrictions.

A licensed peddler, transient merchant or transient merchant-peddler shall not:

- A. Resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting his or her business or offer for sale any provision, food or merchandise that is unwholesome, unfit, deleterious or harmful to the user or consumer thereof.
- B. Peddle at or solicit on private property which has displayed a sign bearing the words "No Peddling or Soliciting" or words of like intent nor shall any licensee remain on the premises after the owner or occupant thereof shall have requested his or her departure therefrom.
- C. Keep the vehicles and receptacles used by him or her in an unclean and unsanitary condition nor the foodstuffs and edibles offered for sale uncovered and unprotected from dirt, dust, insects, contamination or spoilage or as otherwise required by any competent municipal health authority.

- D. Stand or permit the vehicles and receptacles used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or occupant of the premises objects. However, in no case shall the holder of any license issued hereunder remain in any one fixed location and vend his or her goods, wares and merchandise continuously for a period in excess of 30 minutes, nor shall said licensee resume operations during the same business day from a new location within 1/4 mile of said former site of operation.
- E. Sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Permit any vehicles and receptacles used by him or her to stop or remain on any crosswalk.
- G. Create, erect or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- H. Blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares or shout or cry out his or her wares.
- I. Assign or transfer his or her license to any other person, and any transfer to or use of such license by any other person shall be a violation and shall automatically thereupon terminate such license.
- J. Obstruct any street, driveway or other public or private right-of-way.

§ 111-11. License fees. [Amended 7-8-1996 by L.L. No. 4-1996]

License fees shall be as set forth by the Town Board from time to time.³ Honorably discharged members of the armed forces of the United States, although required to apply for a license, shall not be required to pay license fees.

§ 111-12. Revocation of license.

- A. Licenses issued under provisions of this chapter may be revoked by the Town Clerk of the Town of Liberty, after notice and hearing, for any of the following causes:
 - (1) Any violation of this chapter.
 - (2) Conducting the business of peddling in an 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.
- 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 the hearing. Such notice shall be mailed, postage prepaid, to the licensee at the licensee's last known address at least five days prior to the date set for hearing.
- C. The Town Clerk, upon receiving information giving him or her reasonable cause to believe

³. Editor's Note: A fee schedule is located in Chapter A152, Fees.

that the holder of any license issued hereunder has violated any provisions of this chapter or has been convicted of any violation referred to in this section, may forthwith temporarily suspend such license until a hearing is held by the Town Clerk, as provided herein, and the Town Clerk shall have issued his or her determination thereon.

- D. If the licensee has one or more employees, the revocation hereunder shall apply to the licensee and all employees if either the licensee or any one or more of the licensee's employees are determined to be in violation of this chapter.

§ 111-13. Appeals.

Any person aggrieved by the action of the Town Clerk in the denial of any application for a license as provided in § 111-6 of this chapter or in the decision of the Town Clerk with reference to the revocation of a license as provided in § 111-12 of this chapter shall have the right to appeal to the Town Board of the Town of Liberty. Such appeal shall be taken by filing, within 14 days after such 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 Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at the applicant's last known address at least five days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.

§ 111-14. Penalties for offenses. [Amended 7-8-1996 by L.L. No. 4-1996]

Any person violating any of the provisions of any of the sections of this chapter shall be subject to a fine of not more than \$250 or to an imprisonment term of not more than 15 days, or both.