

Chapter 138

PEDDLING AND SOLICITING

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§ 138-3. License required.

[HISTORY: Adopted by the Board of Trustees of the Village of Weedsport at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 108.
Noise — See Ch. 122.

Peace and good order — See Ch. 135.

§ 138-1. Purpose.

This chapter is adopted to regulate the distribution of certain materials, peddling, soliciting and related activities within the Village. The licensing or registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the Village may be established for the protection and maintenance of the health, safety and welfare of the inhabitants of the Village.

§ 138-2. Definitions.

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

CANVASSER — Any person who goes from door to door for the purpose of soliciting and/or collecting funds for noncommercial purposes.

COMMERCIAL ACTIVITY — Activity associated with the sale of merchandise and/or services.

DISTRIBUTOR — Any person who distributes or causes to be distributed on any street or public place within the Village any newspaper, periodical, book, magazine, handbill, circular, card or pamphlet or printed material of any kind for noncommercial purposes.

MERCHANDISE — All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvement or alterations and anything that may be sold or distributed by peddlers and solicitors as used herein.

NONCOMMERCIAL ACTIVITY — Activity associated with political, charitable or religious purposes.

PEDDLER — Any person, whether a resident of the Village or not, who goes house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word "peddler" shall also include the words "hawker" and "huckster."

PERSON — Any individual, firm, partnership, corporation, organization, club, association, or any principal or agent thereof.

SOLICITOR — Any person, whether a resident of the Village or not, who goes house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services, and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place.

TRANSIENT MERCHANT — Any person engaging in the activities commonly referred to as "transient merchant" or "itinerant vendor" who merchandises or sells with the intent to close out or discontinue such business within a period of one year from the date of commencement and who occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 138-3. License required. [Amended 10-9-2013 by L.L. No. 3-2013]

- A. It shall be unlawful for any peddler, solicitor or transient merchant to sell, offer for sale, solicit for merchandise or services or engage in any commercial activity within the Village without first applying for and obtaining a license from the Village Clerk.
- B. Applicants for a license under this chapter shall file an application with the Village Clerk in the form of a sworn affidavit, in duplicate, on a form to be supplied by the Village Clerk, which application shall furnish the following information:
- (1) The name, address and telephone number of the applicant;
 - (2) The applicant's place of residence for the past five years;
 - (3) The applicant's business or employer for the past five years;
 - (4) The applicant's age, height, weight, color of eyes, color of hair and place of birth;
 - (5) Two full-face photographs of the applicant taken within 30 days of application and measuring no less than two inches by two inches;
 - (6) Whether or not the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance, except traffic violations and, if so, the date, court, ordinance and sentence of the court;
 - (7) Whether the applicant has been previously licensed in any occupation and, if so, when, where and for what period and, if such previous license was ever revoked, the date of revocation and the reason therefor;

- (8) The name and address of the person, firm or corporation the applicant represents or is employed by;
- (9) The particular business, trade or occupation for which the license is requested;
- (10) The manner or means of conveyance in which said business or trade or occupation shall be conducted;
- (11) If the application is for a license to handle food in any form, the applicant shall submit a valid permit issued by the Cayuga County Health Department;
- (12) If the applicant requires the use of weighing and/or measuring devices, such application shall be accompanied by a certificate from the County Sealer/Director of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved;
- (13) If the application involves use of a vehicle, proof of a valid New York motor vehicle registration for the vehicle to be used;
- (14) If the application involves the use of a vehicle, proof that the applicant holds a valid New York State driver's license;
- (15) Proof that the applicant holds a New York State sales tax identification number;
- (16) In the event that any other license or permit shall be required by any other governmental agency in connection with the applicant's business, the same shall be produced by the applicant, and the Village Clerk shall duly note the same;
- (17) Any additional information as the Mayor or Village Clerk shall deem necessary for the purpose of administering the provisions of this chapter;
- (18) Proof of insurance for a minimum sum of \$100,000 for personal injury and property damage suffered by any person as a result of the applicant's doing business pursuant to a license issued under this chapter, which insurance policy shall name the Village as an additional insured.

C. Criminal history.

- (1) The Village may conduct a criminal history search for any permit application.
- (2) Convictions.
 - (a) Any felony conviction record will preclude an applicant from licensure.
 - (b) Any misdemeanor conviction will be a basis for denial of a license at the option of the Village Board.
- (3) Applicants may be fingerprinted by the Village Police Department, which will then submit the fingerprints to the Division of Criminal Justice Services for a criminal background investigation.

- (4) In addition to any fees provided for hereunder, the applicant shall be charged the processing fee for a full search and return from the Division of Criminal Justice Services.
- D. Any change in circumstances with regard to the information provided in the application or on the license, or that would appear in a criminal history search, shall be reported to the Village Clerk within 10 days of the date of such change in circumstances.
- E. Any license issued hereunder shall expire 30 days from the date of issue.
- F. Fees.
- (1) The fees to be paid for a license shall be as established by the Board of Trustees by resolution, from time to time.
- (2) Where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be licensed separately, and each shall pay the appropriate fee.
- G. Nothing in this chapter shall be held to apply to:
- (1) Any sales conducted pursuant to statute or by order of any court.
- (2) Any person selling personal property at wholesale to dealers in such articles.
- (3) Merchants or their employees delivering orders to customers at their residence or place of business.
- (4) Persons under the age of 18 years.
- (5) Peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.
- (6) Any honorably discharged member of the armed forces or any other person who has procured a license issued by the Cayuga County Clerk pursuant to New York General Business Law § 32.
- (7) Solicitations by not-for-profit civic, charitable and religious corporations.
- H. No license issued hereby may be assigned by the holder thereof. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this chapter.
- I. The Village Clerk shall maintain a list of residents within the Village who have expressed, in writing, a desire not to be visited by any person, organization, society, association, company or corporation or their agents or representatives for the purpose of proselytizing, canvassing or distributing handbills, pamphlets or other written material or soliciting donations or contributions of money or property or financial assistance of any kind. This list shall be updated periodically as determined by the Board of Trustees. Upon the issuance of any license hereunder, any person, organization, society, association, company or corporation shall be provided with a copy of the list of these Village residents who have expressed, in writing, a desire not to have any such person,

organization, society, association, company or corporation or their agents or representatives enter upon their property or dwelling. Every organization, society, association, company or corporation licensed hereunder shall agree not to visit the premises or dwelling so enumerated in the list provided to it by the Village.

§ 138-4. Restrictions on operations. [Amended 10-9-2013 by L.L. No. 3-2013]

- A. It shall be unlawful for any peddler, solicitor or transient merchant to enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after the hour of 7:00 p.m. of any day except upon the invitation of the householder or occupant.
- B. No peddler, solicitor or transient merchant shall have any exclusive right to any location in the public streets; nor shall any peddler or solicitor be permitted to sell wares within 200 feet of a school between the hours of 8:00 a.m. and 4:00 p.m. on a school day; nor shall he be permitted to sell his wares within 300 feet of a Village-owned park; nor shall he be permitted to stand in one place for more than 30 minutes; nor shall he be permitted to stop within 200 feet of a previous stop; nor shall he be permitted to operate in any congested area where his operation might impede or inconvenience the public. For the purpose of this section, the judgment of any police officer or Code Enforcement Officer of the Village, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- C. It shall be unlawful for any peddler, solicitor or transient merchant to set up a table, box, stand, bag, container or any other device upon any public sidewalk or roadway for the purpose of peddling or soliciting.
- D. No peddler, solicitor or transient merchant shall occupy any part of a state highway for the purpose of peddling. For so long as the same is governed and regulated by state law, any violations hereof shall be punishable in accordance with the New York Vehicle and Traffic Law.
- E. It shall be unlawful for any peddler, solicitor or transient merchant to peddle within a radius of 1,500 feet of any public market or store engaged in the business of selling the same or similar goods, wares and merchandise offered by said peddler.
- F. It shall be unlawful for any peddler, solicitor or transient merchant in plying his or her trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.
- G. Enter or attempt to enter the residence of any resident in the Village without an express invitation from the occupant of the residence.
- H. Conduct himself or herself in such a manner as to become objectionable to or annoy an occupant of any residence.
- I. Shout, cry out, blow a horn or use any sound-making or amplifying device upon any of the streets, parks or public places of the Village or upon private premises where sound of

sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, parks or other public places of the Village or upon private premises therefrom, for the purpose of attracting attention to any merchandise or services.

- J. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- K. Litter the street, public places or properties within the Village with any merchandise or printed material.

§ 138-5. Penalties for offenses.

A violation of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty, of the Code of the Village of Weedsport.