

Chapter 130

PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Town Board of the Town of Westmoreland 7-15-1992 by L.L. No. 2-1992. Amendments noted where applicable.]

§ 130-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them.

CANVASSER — One who takes orders for future deliveries, or for intangible services, or solicits subscriptions in public places or from door to door and not from an established place on private premises. The term "canvasser" as used herein shall not apply to one who solicits funds or orders by telephone.

ESTABLISHED BUSINESS — A person, firm or corporation which carries on its business from a property or a structure either owned or leased for a period greater than six weeks by said person, firm or corporation.

FOODSTUFFS — Food goods and products suitable for human ingestion which has not been grown or produced on lands owned or leased by the person offering such item for sale.

GOODS — See "wares."

HAWKER — See "peddler."

PEDDLER — One who sells tangible commodities from house to house, or on the streets or in any public place, whose sales are not made from one established location which is privately owned or rented, and who makes delivery at the time of sale. Whether or not the purchase price is collected at the same time is immaterial for the purposes of this chapter.

PRODUCE — For the purposes of this chapter only, "produce" is defined as food items grown or produced exclusively and entirely on land which is owned or leased by the person offering such items for sale.

PUSHCART — Any wagon, cart, or mobile apparatus used to carry, transport, display or dispense goods, wares, or foodstuffs offered for sale, and which is propelled, towed, or moved exclusively by manpower.

SOLICITOR — See "canvasser."

VEHICLE — A wagon, cart or mobile apparatus used to carry, transport, display or dispense goods, wares or foodstuffs which is propelled, towed or moved by an engine, a motor or an animal, or any other method of propulsion which is not exclusively manpower.

WARES — Any tangible commodity offered for sale, excluding "produce" as defined in this section.

§ 130-2. Registration and permit required.

Except as hereinafter expressly provided, it shall be unlawful for any person, firm or corporation to vend, sell, offer to sell, or hawk any goods, wares or merchandise from any stand, cart, or vehicle of any kind, located on any street, sidewalk, intersection or public square within the Town, or from door to door, or house to house in the Town without first registering with and obtaining a permit from the Town Clerk.

§ 130-3. Applicability. ¹

Nothing in this chapter shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling to dealers, to farmers and truck gardeners who themselves use, vend, sell or dispose of produce as defined in this chapter, to charitable, religious or nonprofit organization, to any honorably discharged service person who has procured a license as provided by the General Business Law of the State of New York, to persons less than 18 years of age or to persons, firms or corporations selling to regular customers on established routes.

§ 130-4. Procedure for registration. ²

Any person desiring to conduct the business of a peddler, hawker, solicitor or canvasser as defined herein, within the Town, shall first file a written application for a permit to conduct such business with the Town Clerk. Such application shall be on a form provided by the Town. If applicant is to offer any kind of foodstuff for sale, the appropriate certificate from the Oneida County Health Department indicating that applicant's cart or vehicle used to carry said foodstuff is in compliance with all applicable regulations of said Health Department.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-5. Fee.

The fee for obtaining a permit shall be set by a resolution of the Town Board.

§ 130-6. Issuance; renewal of permit.

Upon receipt by the Town Clerk of a complete application and appropriate fee, a permit will be issued to applicant. Such permit shall be effective for a period of one year from January 1 to December 31. The permit may be renewed upon payment of the required fee for issuance, and, if applicant intends to sell foodstuffs, submission to the Clerk of a current inspection certificate from the Oneida County Health Department.

§ 130-7. Registration of firms, organizations.³

Registration and permits equal to the number of peddlers or solicitors conducting business within the Town may be granted to the firm, organization or corporation employing said peddlers or solicitors upon submission of an application and payment of the appropriate permit fee. The firm, organization or corporation shall submit changes in said applications to the Town Clerk as they occur.

§ 130-8. Change of address.

Any permit holder shall notify the Town Clerk within 30 days of a change of address or residence.

§ 130-9. Permit holder to carry and post permit.

Each person registered as provided in this chapter shall carry his permit with him whenever he is engaged in his work, and shall post it for public display if vending, selling, offering to sell, or hawking any goods, wares or merchandise from any stand, cart or vehicle of any kind.

§ 130-10. Copy of provisions for permit holder.

A copy of the provisions of this chapter shall be furnished to each person registering under these provisions.

§ 130-11. Revocation of permit.

The Town Board may, at any time, for a violation of this chapter or any other ordinance or law applicable to the Town, revoke any permit. When a permit shall be revoked, no refund or any unearned portion of the permit fee shall be made. Notice of such revocation and the reason therefor, in writing, shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-12. Nontransferability of permit. ⁴

No permit or badge issued under the provisions of this chapter may be transferred from one person to another person or from one vehicle to another vehicle, nor shall the permit so issued be used at any time by any person other than the person to whom it was issued.

§ 130-13. Hours of operation. ⁵

It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before the hours of 9:00 a.m. of any day or after 1/2 hour before sunset of any day or after the hour of 7:00 p.m. of any date except upon the invitation of the householder or occupant.

§ 130-14. Signs to be posted.

A sign shall be placed as close as practicable to each entrance to the Town bearing the following words:

"Peddlers and solicitors registration required. Apply to the Town Clerk. Fines for failure to comply."

§ 130-15. Misrepresentation of product, unlawful sale.

No person registered under the provisions of this chapter shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

§ 130-16. Prohibited conduct.

- A. No peddler or solicitor shall interfere with pedestrian traffic on the sidewalk or vehicular traffic on the street, nor shall any person interfere with the entrance or exit space of any property abutting a sidewalk or street.
- B. No peddler or solicitor shall cause or create a nuisance or a danger to life, health or property.
- C. No peddler or solicitor shall leave his/her pushcart or vehicle unattended during the hours (s)he is engaged in business.
- D. No peddler or solicitor shall leave his/her pushcart or vehicle on the sidewalks or streets overnight.
- E. No vehicle shall be allowed on the sidewalks in the Town for the purpose of peddling or soliciting.

4. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-17. Required conduct.

- A. Every peddler and solicitor shall maintain the area immediately surrounding his/her pushcart or vehicle in a clean manner.
- B. Each peddler or solicitor selling or offering for sale foodstuffs for immediate consumption shall provide at least one trash receptacle for the disposal of refuse. (S)he shall be required to maintain the receptacle as provided and shall not allow said receptacle to become so filled as to overflow onto the ground, sidewalk or street.

§ 130-18. Penalties for offenses.

Failure of any person to fully comply with the provisions of this chapter shall result in one or more of the following:

- A. Revocation of one's permit in accordance with § 130-11 of this chapter; and/or
- B. Prosecution of the offender as a violation subject to a fine up to \$250 and/or up to 15 days' imprisonment.