



TOWN OF NEW WINDSOR
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PEDDLING & SOLICITING LOCAL LAW, Chapter 217 of the Town Code

SECTION 2

TITLE

The newly enacted Local Law shall be known, in the Town Code of the Town of New Windsor, as "Peddling, Soliciting, Canvassing and Temporary or Transient Merchants."

SECTION 3

DEFINITIONS

When used in this Chapter, the following terms shall have the meanings indicated below:

CANVASSER

Any person who, by going from house to house or business to business or any combination thereof, predominantly seeks contributions, fundraisers, petitions, solicits membership, disseminates information or conducts activities which would not be characteristic of a peddler or solicitor.

CHARITABLE ORGANIZATION

Any benevolent, philanthropic, military veterans, not-for-profit, educational or religious association, society or organization qualified as a tax-exempt organization under Section 501 of the Internal Revenue Code; or any governmental entity or organization, including, without limitation, a school district, fire district or fire company.

ENFORCEMENT OFFICIAL

All Town employed Building Inspectors, Code Enforcement Officers, and Police Officers shall be recognized as Enforcement Officials as referenced in this Chapter.

ESTABLISHED PLACE OF BUSINESS

A permanent building, store or depository in which or where the person transacts business and deals in goods, wares, merchandise, commodities or services in the ordinary and regular course of business.

PEDDLER

Any person who, in any street or public place or by going from house to house or from place to place, or any combination thereof, on foot or from any vehicle, sells or barter, or offers for sale or barter, or carries or displays for sale or barter, any goods, wares, merchandise or services. For the purposes of this chapter, any entity which engages a person as their agent for the purposes of peddling is also considered a "peddler" and is subject to all provisions herein.

PERSON

Any individual, including veterans of the armed forces of the United States, any firm, partnership, corporation, company, association or joint-stock association; church, religious sect, religious denomination, society, organizations or league, and any trustee, receiver, assignee, agent or other representative thereof.

PROPERTY

Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

SOLICITOR

Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house, from street to street, from place to place, or any combination thereof, who takes or offers to take orders for the sale of any goods, wares or merchandise for present or future delivery, or for the performance of future services, whether or not he collects advance payments for such sale or service. For the purpose of this chapter, any entity which engages a person or their agent for the purpose of soliciting, is also considered a solicitor and is subject to all provisions herein.

STATE HIGHWAY

Highways within the Town of New Windsor classified as state highways pursuant to Highway Law §3; Subdivision 1, and/or designated as such on the Official Highway Map of the New York State Department of Transportation showing the location of state highways.

TEMPORARY OR TRANSIENT MERCHANT

A person, as defined above, who chooses a specific location within the town upon which to erect or park a cart, tent, wagon, truck, stand or any other vehicle or structure, from which they seek to engage in peddling, soliciting, canvassing or any other activity, with the intent to return to the same location for such purpose each day. This category shall include, but not be limited to, temporary, off-premises roadside stands established for the purpose of selling vegetables, fruit or other farm products; food trucks or wagons; Christmas trees; and any nonperishable goods. All such temporary or transient merchants seeking to operate a temporary or transient business, as defined below, must have the written permission of the owner(s) of the location from which they wish to engage in the aforementioned activity and, before any permit shall be issued for same, a special use permit for such operations must be obtained from the Town Planning Board.

TEMPORARY OR TRANSIENT BUSINESS

A retail or wholesale business conducted from a temporary structure or tent, truck, van, trailer, stand, parking lot, or vacant parcel of land, in a public right-of-way or in or on any other place in town, excluding the outdoor sale of property or services accessory to a business conducted within a permanent structure on the same premises or the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other laws, regulations and ordinances of the town.

SECTION 4

PERMIT REQUIRED

No person shall engage in the business of peddling, soliciting, canvassing, or as a temporary or transient merchant, as defined in §217-3 of this Chapter, without first having obtained, and having in full force and effect, a permit for same as herein provided.

SECTION 5

EXEMPTIONS

- A. No permit to peddle, solicit, canvass or to engage in temporary or transient merchandising shall be required for:
1. Any sales conducted pursuant to statute or by order of any court.
 2. Any Town sponsored event.
 3. Any wholesaler selling property, as defined herein, or services to dealers or merchants who have an established place of business in town.
 4. Any person soliciting at the express invitation of the person solicited or serving an established customer.
 5. Any child 18 years of age or under who resides within the Town of New Windsor and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts, Brownie Scouts, clubs, classes or organizations sponsored by a school that serves children living within the Town of New Windsor of which such child is a member.
 6. Any regularly established retailer in the Town of New Windsor, and their duly appointed agents, servants and employees, seeking to sell or promote goods or services where their established place of business is located.
 7. Any farmer producing meat, fish, fruit and/or other farm produce on their own land located within the Town of New Windsor, or person with an established place of business located within the Town of New Windsor, provided that they have otherwise complied with all applicable laws, licensing, and health and safety requirements of any other competent governmental body or agency, as well as the Zoning Code of the town, and all sales take place from a stationery location upon property owned or leased by the seller of such goods.
 8. Any charitable organization, as defined herein, or its agents or employees, excluding however any door-to-door peddling, soliciting or canvassing.
 9. Any honorably discharged veteran seeking to peddle or solicit, including, but not limited to those to whom General Business Law §32 apply, shall be required to file an application with the Town for same, as set forth below, but shall be exempt from any town-imposed fees associated with such application and shall be exempt from any restrictions and prohibitions set forth below, unless specifically indicated otherwise.

10. Any person conducting a business or activity performing a service pursuant to a license issued by the United States Government, the State of New York, or by any business service or activity licensed for such activity under any other law, regulation or ordinance of the Town of New Windsor.
11. Any candidate, or representative of any candidate, running for public office.

SECTION 6

APPLICATION FOR PERMIT

- A. Each applicant for a permit hereunder shall submit to the Town Clerk a written verified application containing the following information:
 1. The name, home address, e-mail address, cell phone number, date of birth, social security number and motorist identification number of the applicant and, if applicable, the name and business address of the corporation, firm, association, club, partnership, or other organization for which the applicant seeks a permit, along with the name and contact information of the person in charge of the organization's solicitation, peddling, canvassing and/or transient merchandising efforts and proof of the applicant's employment for same;
 2. The applicant's work history for the past five years, with references and contact information for same;
 3. The applicant's age, height, weight, eye color and hair color;
 4. Two color photographs of the applicant, passport size, taken not more than 60 days prior to the date of filing of the application;
 5. A personal statement from the applicant, attesting to whether they have any criminal convictions, along with information regarding any prior municipal ordinance violations (other than traffic) and, if applicable, a statement setting forth the applicable court and disposition for each;
 6. If the applicant seeks to have others peddle, solicit or canvass in connection with the permit they seek, they must provide the same personal information for all such persons as that which is required, per this Chapter, for the applicant.
 7. A description of the vehicle or vehicles to be used in connection with approval of the permit sought, with proof of registration and insurance for all, a copy of the applicant's driver's license, and a copy of the driver's license for all others that may drive in connection with the permit sought;
 8. If the applicant proposes to distribute any literature or written material, a copy of same shall be provided with the application;
 9. An itemized statement of all property, goods or services for which the applicant and/or those working with the applicant wish to sell or solicit orders;

10. Written consent provided by the applicant, and every person who may peddle, solicit, canvass or sell on behalf of same, allowing the Town of New Windsor Police Department to secure the results of a criminal background check, via fingerprint submission, if requested, all costs of which shall be the sole responsibility of the applicant seeking a permit pursuant to this Chapter;
11. A copy of any applicable permit issued by the County or State Health Department;
12. If the applicant, or anyone who may peddle, solicit, canvass or sell on behalf of same, intends to go from house to house or place to place, the route to be followed, and the dates and times of such activity;
13. If the applicant is a non-profit corporation of the State of New York, a certified copy of its certificate of incorporation, together with any amendments or supplements thereto;
14. Designation of persons upon whom legal service may be made, along with instructions on how proper legal service may be made, if applicable; and
15. Such other information as the Town Supervisor, Town Board, Town Clerk, Town Attorney or Town Police Department may determine from time to time.

SECTION 7

APPLICATION REVIEW

- A. Upon receipt of any application for a permit filed pursuant to this Chapter, the Town Clerk shall undertake a review of same, with the aid and assistance of other town officials, as deemed necessary, to preserve and protect the safety, health, welfare and rights of the town's residents, occupants, visitors and established places of business.
- B. Upon completion of the above review, the Town Board shall be provided with a copy of the application and the results of the review in order that it may examine, all on its own, and decide, by motion at the next available regularly scheduled town board meeting, to grant or deny such application for permit. If granted, the Town Clerk shall issue such permit, which shall remain in effect as discussed below in §217-8 of this Chapter.
- C. The Town Clerk shall keep a record of all applications made and permits issued.
- D. All permits issued pursuant to this Chapter shall be nontransferable and shall remain in the continuous possession of the permittee while engaged in the permitted business or activity. Such permit shall immediately be produced upon demand of any town official, prospective buyer, customer, police officer or other law enforcement official. Any holder of such permit who allows it to be used by any other person, and any person who uses such permit granted to any other person, shall be guilty of a violation of this Chapter.

SECTION 8

EXPIRATION OF PERMITS AND FEES

- A. All permits issued pursuant to this Chapter, including those issued to those meeting the requirements for an exemption for fees relating to same, shall expire six (6) months after issuance of same.
- B. All permittees wishing to obtain a new permit must re-apply upon expiration of a previously issued permit and pay all applicable fees for a new permit.
- C. Fees for all permits to be issued pursuant to this Chapter, and for the review and processing of all applications related thereto, shall be established by the Town Board and set forth in the Town Schedule of Fees.

SECTION 9

REGULATIONS and RESTRICTIONS

- A. Loudspeakers and noisemaking devices. No peddler, solicitor, canvasser, or transient merchant nor any person on their behalf, shall shout, cry out, blow a horn, ring a bell or use any sound-making device upon any street, avenue, alley, park or other public place within the Town or upon private property within the Town, where sound is emitted or produced therefrom, for the purpose of attracting attention to any item of any kind or description which the permittee proposes to sell.
- B. Restricted and prohibited locations.
 - 1. No person may peddle, solicit, canvass, or sell their goods or wares in any congested place or area when or where such activity may impede, endanger or inconvenience the public or add to the congestion of such place or area. For purposes of this section, the judgment of any enforcement official, exercised in good faith, shall be deemed conclusive as to the existence of congestion and as to whether the public is impeded, endangered or inconvenienced.
 - 2. In the interest of public safety and due to traffic hazards caused by the stopping of motor vehicles and traffic congestion on all roads in the Town of New Windsor, no person shall park any vehicle, cart, wagon or trailer, for the purpose of peddling, soliciting, canvassing or selling their good or wares, for any length of time, upon any road with a speed limit over 30 MPH or along the shoulder or right of way of such road; and no person shall park any vehicle, cart, wagon or trailer, for the purpose of peddling, soliciting, canvassing, or selling their goods or wares, for longer than 30 minutes in a 24 hour period, upon any road with a speed of 30 MPH or under, nor move the location of such vehicle, cart, wagon or trailer to a different location on the same road, or any road intersecting with that same road, in an effort to avoid violating this prohibition.

3. Except as noted below, no person shall, for any length of time, peddle, solicit, canvass or sell goods or wares on any part of a state highway, or on any part of a right of way, shoulder, or driveway off of such state highway. For so long as any part of the same is governed and regulated by state law, any violation thereof shall be punishable in accordance with state law [see Vehicle and Traffic Law §§ 1157(c) and 1800], in addition to being a violation of this Chapter and therefore subject to the enforcement provisions set forth herein.
 - a. Any veteran, as discussed above in §217-5(8), seeking to peddle, solicit, canvass or sell goods or wares on any area just off a state highway, including but not limited to a right of way, shoulder or driveway off such state highway, may do so if permitted by state law and if, in the judgment of enforcement officials, exercised in good faith, such presence is not believed to create any pedestrian or vehicular congestion and/or public obstruction, endangerment or inconvenience.
4. Except as permitted above in §217-5, no person shall create, erect or maintain any temporary or permanent booth, shed, or other structure or shelter, or place any barrels, boxes, crates or other obstructions upon any street, public place or private property, in order that they may operate as a temporary or transient merchant or for a temporary or transient business, to peddle, solicit or promote for sale any goods, wares or merchandise, or to canvass for any purpose as that term is defined above in this Chapter.
5. No person shall peddle, solicit or canvass on private or public property which has displayed a sign bearing the words "No Peddling, Soliciting or Canvassing" or words of like intent, nor shall any peddler, solicitor or canvasser remain on any premises after the owner or occupant thereof requests their departure from same.
6. No person issued a permit to peddle, solicit, canvass or sell goods or wares in town shall resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting such business or offer any provision, food or merchandise that is unwholesome, unfit or otherwise harmful to the physical or mental well-being of the intended user or consumer thereof. As discussed in §217- 6 above, any person requesting a permit pursuant to this Chapter shall be required to provide the Town Clerk's office with a written itemized statement of all property, goods, literature or services they wish to sell or distribute should their application for a permit be approved.
7. No person may solicit, peddle, canvass or sell goods or wares on any street, sidewalk or public place in town which is within 200 feet of an established place of business in town, as that term is defined above in this Chapter.
8. No person shall peddle, solicit, canvass or sell goods and wares at or within a one-thousand-foot (1000') radius of any municipal park or other town owned or maintained property, unless specifically licensed or authorized by the Town to do so, or by way of any agreement with the town to provide such services at a town-sponsored event.

9. No person engaged in peddling, soliciting, canvassing or selling goods or wares from a motor vehicle, booth, shed, tent, or other structure or shelter shall keep or maintain items outside same, including, but not limited to, tables, chairs, umbrellas or freestanding signs, except that chairs, tables and umbrellas attached to same as well as two lidded garbage cans, one for regular trash and one for recyclables, may be kept and maintained during regular business hours. One generator may also be maintained outside same, so long as the generator is not located within one thousand (1000) feet of any residential lot line. Any generator allowed must be kept within 20 feet of the motor vehicle, booth, shed, tent, or other structure or shelter. All vehicles, booths, sheds, tents, or other structures or shelters and their appurtenances shall be kept in sound, clean and sanitary condition.
10. Any permit issued pursuant to this Chapter shall include the right to use only one vehicle, cart, wagon, trailer, booth, shed, tent, or other structure or shelter in carrying out the business for which the permit is granted. Any such vehicle, cart, wagon, trailer or combination thereof, shall not have more than two axles nor be larger than 30 feet in total length.
11. Any person issued a permit to peddle, solicit or sell goods or wares shall provide anyone purchasing or obtaining such goods or services offered a receipt for same, in writing, and in advance of any delivery. All such orders must be taken in compliance with all applicable state and federal law and Federal Trade Commission rulings. Nothing herein shall be taken to waive such restrictions and all applicable sales tax shall be collected and paid pursuant to all local, state and federal law.
12. Not more than one temporary or transient merchant per lot or parcel will be permitted, except for vendors attending a Town-sponsored event; and, are further prohibited within one thousand (1000) feet of an established commercial business engaged in similar activity; and required to maintain a minimum distance of two thousand (2000) feet from any other temporary or transient merchants.
13. Any area to be occupied by a single temporary or transient merchant; including, but not limited to any stand, tent, wagon, truck, sign and trash receptacle attendant thereto, shall not exceed three hundred (300) square feet.
14. All temporary and transient merchants shall provide for and maintain trash receptacles and be responsible for trash removal at the end of each day.
15. No temporary or transient merchant shall sell or transfer an assigned space.
16. One freestanding sign per temporary or transient merchant may be permitted. Signs must be constructed of a durable material and maintained in a presentable condition. Flashing lights or lighting is prohibited. No sign shall be placed within fifteen (15) feet of a property line or within an established sight triangle for interior lanes or access driveways. All freestanding signs must be removed and properly secured during nonoperating hours. Maximum sign face shall not exceed four (4) square feet and shall not exceed four (4) feet in height.

17. No charitable organization shall engage in soliciting before filing with the Town Clerk a list of names, addresses and dates of birth of persons who will conduct activity related to an approved permit on its behalf and a statement of the time period during which the solicitation shall occur. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Town Clerk.
18. No activity permitted pursuant to this Chapter, whether or not exempt from the permit requirements of this Chapter, shall be conducted before 9:00 a.m. or after the earlier of 1/2 hour after sunset or 8:00 p.m.
19. A temporary or transient business permit, as defined herein, shall be limited to a single location and that location must be approved by the Building Department.
20. Upon receipt of the application and of the license fee, and if reasonably satisfied with the applicant's qualifications, the Town Clerk shall issue a license to the applicant specifying the particular business authorized, as set forth in the definitions herein, and the location wherein it may be conducted, subject to the approval of the Building Department, if the permit is for a temporary or transient business permit. This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business license. The license shall be produced upon the demand of any town official, prospective customer, police officer or sheriff. 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 be guilty of a violation of this Chapter.

SECTION 10

PENALTIES

- A. Any person, as defined in this Chapter, or any agent, servant or employee of same, who shall peddle, solicit, canvass or sell goods or wares without a valid permit issued by the Town Clerk, as herein discussed, or who otherwise violates any of the provisions of this Chapter, shall, upon conviction for same, be punished by a fine not to exceed \$250 for an individual; \$500 for a corporation or business entity, or by imprisonment for a term not to exceed 15 days, or both fine and imprisonment, as applicable, for each violation. Each day on which such violation continues shall constitute a separate offense.
- B. Grounds for revocation - in addition to the penalties set forth above, permits issued pursuant to this Chapter may be revoked by the Town Clerk after notice and a hearing for any of the following reasons:
 - 1. Fraud, misrepresentation or false statement contained in the application for a permit.
 - 2. Fraud, misrepresentation or false statement made in the course of carrying on business peddling, soliciting, canvassing, or selling goods or wares pursuant to the issuance of a permit for same.
 - 3. Any violation of this Chapter.
 - 4. Conviction of any crime or misdemeanor involving moral turpitude.
 - 5. Conducting the business of peddling, soliciting, canvassing, or selling goods or wares 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.
- C. Notice of hearing; service. Notice of the hearing for revocation of a permit shall be given in writing, setting forth the specific grounds of the complaint/issue(s) leading to such hearing and the time and place of the hearing. Such notice shall be mailed, by regular mail, to the licensee at his last known address at least five (5) business days prior to the date set for the hearing.
- D. Suspension. The Town Clerk, upon receiving information providing reasonable cause to believe that the holder of any permit issued hereunder has violated any provisions of this Chapter, or has been convicted of any violation referred to in this Chapter, or has been indicted or charged with any crime or offense, or has been convicted of any crime or offense, may forthwith temporarily suspend such permit until a hearing is held by the Town Clerk, as provided herein, and the Town Clerk shall have issued a determination thereon.
- E. Effect on employees. If the permittee has one or more employees, the revocation hereunder shall apply to the permittee and all such employees, regardless of whether the violation pertains the permittee alone or to one or more of the permittee's employees.

SECTION 11

APPEALS

Any person aggrieved by the decision of the Town Clerk with reference to the revocation of a permit shall have the right to appeal to the Town Board of the Town of New Windsor. Such appeal shall be taken by filing, within fourteen (14) days after notice of the action complained of has been mailed, by regular mail, 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, by regular mail, at the applicant's last known address, at least five (5) business 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.

