

Chapter 57

HAWKERS, PEDDLERS & SOLICITORS

§ 57-1. Definitions.[Amended 4-2-97 LL NO. 1-1997]

§ 57-2. Exemptions.

§ 57-3. License required.

§ 57-4. Application for license.

§ 57-5. Licenses.

§ 57-6. Fees.

§ 57-7. Plates for vehicles; display.

§ 57-8. Revocation of license; notice.

§ 57-9. Restrictions on licensees.

§ 57-10. Restrictions on advance payment.

§ 57-11. Records.

§ 57-12. Penalties for offenses; injunctive relief.

§ 57-13. Severability

§ 57-14. Repealer.

§ 57-15. When effective.

[HISTORY: Adopted by the Town Board of the Town of Windsor 9-13-67.¹; 4-2-97 LL No.1-1997, Amendments noted where applicable.]

¹ Adopted as Ch. 14 of the 1972 Code of the Town of Windsor.

§ 57-1. Definitions.[Amended 4-2-97 LL No.1-1997]

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

ESTABLISHED PLACE OF BUSINESS - Includes a building or vacant property in which a person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

HAWKER and PEDDLER - Includes, except as hereinafter expressly provided, any person, either principal or agent, who, from any automobile, boat, conveyance, truck, van, trailer or cart, or on any public street or public place, or by going from house to house or from place of business to place of business, on foot, or from any animal or vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter, any goods, wares or merchandise, except milk or newspapers.

PERSON - Includes one (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

SOLICITOR - Includes any person who goes from place to place or from house to house or who stands in any street or public place, taking or offering to take orders for goods, wares or merchandise, except newspapers or milk; services to be performed in the future; or making, manufacturing or repairing any article or thing whatsoever for future delivery.

§ 57-2. Exemptions.

A. 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) Persons or employees of persons having an established place of business within the town, soliciting orders from customers and delivering the same.
- (4) Any honorably discharged soldier, sailor, or marine who has procured a license under the General Business Law of the State of New York.
- (5) Persons acting solely on behalf of charitable-type organizations, contributions to which are deductible under the Internal Revenue Code of the United States.

(6) Peddling of meats, fish, fruit and farm products by farmers and persons who produce such commodities.

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

§ 57-3. License required.

It shall be unlawful for any person to act as a hawker, peddler or solicitor within the corporate limits of the Town of Windsor without having in full force and effect a license therefore.

§ 57-4. Application for license.

Any person desiring to procure a license as herein provided shall file with the Town Clerk a written application upon a blank form approved by the Town Board and furnished by the Town of Windsor and shall file at the same time satisfactory proof of good character. The application shall state the number and kind of vehicle to be used by the applicant in carrying on the business for which the license is desired, the kinds of service he desires to perform; the method of distribution; the name, address and age of the applicant; the name and address of the person, firm or corporation he represents; the length of time the applicant desires the license for; and such other information as may be required by the Town Board. The application shall be accompanied by a certificate from the Sealer of Weights and Measures of Broome County certifying that all weighing and measuring devices to be used by the applicant have been examined and approved, if any such devices are to be used.

§ 57-5. Licenses.

A. Upon filing the application and certificate as provided in the preceding section, the Town Clerk shall, upon his approval of such application, issue to the applicant a license signed by the Town Clerk.

B. Except as hereinafter provided, no license shall be refused except for a specific reason relating to the protection of the public safety, health, morals or general welfare.

C. 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.

D. Whenever a license or vehicle plate shall be lost or destroyed, a duplicate in lieu thereof under the original application may be issued by the Town Clerk upon the filing with him by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

E. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued, and shall state clearly the kind of vehicle to be used; the kind of goods, wares and merchandise to be sold or service to be rendered; the number of the license plate, if any; the dates of issuance and expiration of the license; the fee paid; the name and address of the licensee; and such other information as the Town Board shall require.

F. Such license shall automatically expire on January 1 following its date of issuance, but its terms may specifically provide for an earlier expiration date.

G. Such license shall include the right to use only one (1) vehicle in carrying on the business for which the person is licensed.

H. No license shall be granted to a person under eighteen (18) years of age.

I. No applicant to whom a license has been refused or who has had a license revoked shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.

J. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§ 57-6. Fees.

The license fee shall be fifteen dollars (\$15.) regardless of when the license is obtained or when it expires.

§ 57-7. Plates of vehicles; display.

The Town Clerk may supply vehicle plates to licensed hawkers, peddlers and solicitors when, in his determination, they shall be deemed necessary. Such plates shall not be transferred or assigned. The vehicle plates shall be displayed by every licensee of a vehicle to whom they are issued, one (1) on each side of the body of the vehicle used by him in the exercise of his license. Such vehicle plates shall state the character and number of the license, its date of expiration, and such other information as the Town Board shall require. The display of vehicle plates is hereby made a condition of every license to which such plates apply, and failure by the licensee to display the vehicle plates as aforesaid, while in the exercise of his license, shall be cause for the revocation of such license.

§ 57-6

HAWKERS, PEDDLERS & SOLICITORS

§ 57-9

§ 57-8. Revocation of license; notice.

The Town Board may, at any time, for violation of this chapter or any other ordinance or law, revoke any license. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. The Supervisor shall file with the Town Clerk a notice of the revocation of the license and the reasons therefor, and the Town Clerk shall mail a copy of such notice to the licensee by registered or certified mail at the address appearing on the license.

§ 57-9. Restrictions on licensees.

A licensed hawker, peddler or solicitor shall:

- A. Not 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.
- B. Not use the license or the vehicle plates issued in connection therewith after the expiration or revocation of the license.
- C. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects. Sale of any foodstuffs and edibles shall be subject to the rules and regulations of the appropriate Health Officer or Bureau.
- D. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.
- E. Not sell any confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not create 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.

§ 57-10. Restrictions on advance payment.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time that the deposit of money is paid to the solicitor.

§ 57-9

WINDSOR TOWN CODE

§ 57-11

§ 57-11. Records.

The Town Clerk shall keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and the date of revocation of all licenses revoked.

§ 57-12. Penalties for offenses; injunctive relief.

A. Any person who, himself or by his clerk, agent or employee, shall act as a hawker, peddler or solicitor, as herein defined, without a license, or shall violate any of the provisions of this chapter, or who, having had his license revoked, shall continue to act as a hawker, peddler, or solicitor, shall, upon conviction, be deemed to have committed an offense against this chapter and shall be punished by a fine of not exceeding twenty-five dollars (\$25.), and each day on which such violation continues shall constitute a separate offense.

B. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of twenty-five dollars (\$25.) for each such offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.

C. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

§ 57-13. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 57-14. Repealer.

All ordinances or parts of ordinances heretofore adopted which are in conflict with any provision or provisions of this chapter are hereby repealed.

§ 57-15. When effective.

This chapter shall take effect immediately.