

HAWKING AND PEDDLING

Chapter 41

HAWKING AND PEDDLING

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[HISTORY: Adopted Liberty Village Board 6-16-69.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Advertising — See Ch. 7.
Soliciting — See Ch. 71.

¹ Editor's Note: This ordinance supersedes former Ch. 41, Hawking and Peddling, adopted 5-21-34.

§ 41-1. Purpose.

The purpose of this ordinance is to preserve and care for the safety, health, comfort and general welfare of the inhabitants of the Village of Liberty or visitors thereto by the regulation of peddling, hawking, vending and soliciting orders from new customers by going from house to house.

§ 41-2. Definitions.

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

BOARD — The Mayor and Board of the Village 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 streets, or from house to house, and carries with him 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 thereto, becomes a peddler or hires a peddler as defined by “peddler.”

§ 41-3. 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 Village of Liberty without first obtaining a license and having paid the license fee hereinafter prescribed.

§ 41-4. Exemptions.

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

- A. The peddling of meats, fish, fruit and farm products by farmers and persons who produce such commodities.
- B. Hawking or peddling by an honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military service of the United States.
- C. The holder of a license granted pursuant to § 32 of the General Business Law.
- D. Nonprofit and charitable organizations, including their representatives, agents and employees.

§ 41-5. Application information.

Any person desiring a license shall file with the Village Clerk an application blank, separate blanks being provided for each of the three (3) classes of licenses. The blanks shall contain the following information and must be under oath:

- A. For all license classes:
 - (1) Name of applicant.
 - (2) Permanent home residence.
 - (3) Name and address of firm represented, and the names and addresses of the persons from whom goods making up the stock were or are to be purchased.

- (4) Three (3) business references.
 - (5) The place or places of residence of the applicant for the preceding three (3) 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) To the application must be appended a letter from the firm for which he purports to work, authorizing the applicant to act as its representative.
- 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 Village of Liberty acting for said merchant.
 - (2) Three (3) 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.

§ 41-6. Verification by Police Chief; nontransferability and exclusiveness of license.

- A. Following the filing of the application, the Chief of Police shall verify the information respecting the applicant and shall signify his 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 Village 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 him. A separate license must be obtained by a licensed transient merchant for each branch or separate place of business in the Village of Liberty in which his business is conducted, and each license shall authorize the person to conduct business only at the location which is indicated therein.

§ 41-7. Form of license; filing; records.

- A. All licenses shall be issued on forms drawn in accordance with this ordinance. 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 Village Clerk the necessary books for recording the time the application for license is received showing its class, whether new or renewal, name of the licensee, regular number of the blank form, when the application was approved by the Chief of Police and the Village Clerk, the amount of fee received therefor and the date when the license was issued.
- C. The Village 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.

§ 41-8. Display of license; metal plate required for vehicles.

- A. Every person holding a license under this ordinance shall be required to carry the license with him or at his business premises while engaged in the business licensed. He must produce the license at the request of any official of the village and of any person of the village with whom he wishes to conduct his said business.
- B. To every peddler granted a license the Village Clerk shall issue a metal plate bearing the words "Licensed Peddler, Village 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 metal plate. A transient merchant and a transient merchant-peddler must post a license certificate in a prominent place in his business premises.

§ 41-9. General restrictions. [Amended 8-1-88 by L.L. No. 8-1988]

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 business, nor 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 departure therefrom.
- C. Keep the vehicles and receptacles used by him 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 to stand in one (1) place in any public place or street for more than ten (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 (1) fixed location and vend his goods, wares and merchandise continuously for a period in excess of thirty (30) minutes, nor shall said licensee resume operations during the same business day from a new location within one-fourth ($\frac{1}{4}$) mile of said former site of operation.
- E. 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. Permit any vehicles and receptacles used by him 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 wares or shout or cry out his wares.
- I. Assign or transfer his 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.

§ 41-10. License fees. [Amended 8-1-88 by L.L. No. 8-1988]

License fees shall be as follows:

- A. Peddlers: ten dollars (\$10.) per day; fifty dollars (\$50.) per week; one hundred dollars (\$100.) per month; and one hundred fifty dollars (\$150.) per year. Every peddler's license shall

terminate at the close of December 31 of the year in which it was issued.

- B. Transient merchants: the sum of five hundred dollars (\$500.) for a license which shall continue in favor of the person to whom it is issued for the period of six (6) months from the date the same is issued.
- C. Transient merchant-peddlers: the amount prescribed by Subsection B and, in addition thereto, the amount prescribed by Subsection A for each peddler in his employ. The license shall continue in effect six (6) months.

§ 41-11. Revocation or suspension of license; hearing.

A license may be revoked by the Board by reason of the violation of the terms of the license, the violation of any state or federal statute or falsification in applying for a license. The licensed person must be granted a hearing by the Board upon his request. A license may be suspended for not more than two (2) weeks by the Village Clerk without a hearing.

§ 41-12. Penalties for offenses. [Amended 8-1-88 by L.L. No. 8-1988]

Any person violating any of the provisions of any of the sections of this ordinance shall incur a penalty of not exceeding one thousand dollars (\$1,000.) for each and every offense and, in addition, a violation thereof shall constitute disorderly conduct and the person violating the same shall be deemed a disorderly person.

§ 41-13. Repealer; severability.

- A. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.
- B. In case for any reason any section or provision of this ordinance shall be held by a proper legal tribunal to be unconstitutional or invalid, the same shall not affect any other

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section or provision of this ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be inseparable from the remainder of any portion thereof.

§ 41-14. When effective.

This ordinance shall become effective upon the publication thereof in accordance with the Village Law of the State of New York.