

Chapter 109

PEDDLING AND SOLICITING

GENERAL REFERENCES

Peddling and soliciting in parks — See Ch. 109.

§ 109-1. Purpose.

This chapter is enacted for the purpose of regulating the conduct and business practices of transient merchants within the Town of Farmington.

§ 109-2. Definitions.

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

CANVASSER — A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the purpose of attempting to provide information regarding or to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate.

ITINERANT VENDOR — A person that sells goods, wares, products, business or services from a vehicle, portable shelter, vacant building, vacant store, motel, hotel, boardinghouse, lodging house, rooming house, structure, lot or other location with the intent to remain in business at any one location for a limited period of time, usually no more than three months.

PEDDLER — Any person that is conducting a peddler activity.

PEDDLER ACTIVITY — The selling of any goods, wares, products, business or services by going from door to door or on any public street, on any publicly owned or maintained sidewalk or on other publicly owned, maintained or operated property.

PERMIT — A permit issued under this chapter of the Code of the Town of Farmington, and no other chapter, permitting a person to conduct activities as an itinerant vendor or a peddler.

PERSON — An individual, corporation, limited liability company, partnership, estate, trust, association, any other legal entity of any kind or description and any principal or agent thereof.

SOLICITOR — A person that goes from place to place without prior specific invitation or appointment from the resident or business that either distributes an advertisement regarding a commercial or noncommercial event or service or attempts to obtain a donation to a bona fide charitable, educational, scientific, health, religious or veterans' organization.

§ 109-3. Objectives.

The objective of these regulations is to provide control by the Town of Farmington of peddlers and itinerant vendors doing business within the Town of Farmington so as to protect the health, safety and welfare of the residents and businesses within the Town and their property.

§ 109-4. Permit required; fee.

No person shall engage in business as a peddler or itinerant vendor unless he or she shall first have obtained a permit to do so from the Town Clerk and the Town Code Enforcement Officer no later than six business days before the first date of conducting business as a peddler or itinerant vendor. The fee for this permit shall be \$100 per calendar day such person will be engaging in business as a peddler or itinerant vendor. Separate permits shall be obtained and paid for by each individual peddler and itinerant vendor. Upon the issuance of a permit, the permit fee paid to the Town Clerk for such permit shall become nonrefundable.

§ 109-5. Permit application.

- A. Any person required by this chapter to obtain a permit to engage in business as a peddler or as an itinerant vendor shall file with the Town Clerk an application, as provided by the Town Clerk, for such permit, signed by the applicant in the presence of the Town Clerk or a Deputy Town Clerk, and accompanied by the required fee and all of the following information and documentation:
- (1) The name of the applicant who will be engaging in business as a peddler or as an itinerant vendor.
 - (2) Government-issued photo identification of the applicant who will be engaging in business as a peddler or as an itinerant vendor. (The Town Clerk's office shall make a photo copy of such identification to keep with the application.)
 - (3) The address of residence of the applicant who will be engaging in business as a peddler or as an itinerant vendor.
 - (4) The name and address of the person, firm or business entity the applicant represents, together with copies of documents establishing the firm's country of organization, state or county of organization, form of organization, ownership and qualifications to do business in New York State and/or Ontario County and the exact relationship between the firm and the applicant.
 - (5) A brief description of the nature of the business and the kind of goods, wares, products, business or services the applicant intends to sell.
 - (6) The dates and times the applicant will be engaging in business as a peddler or itinerant vendor.
 - (7) If applying for a permit to engage in business as an itinerant vendor, the vehicle, portable shelter, vacant building, vacant store, motel, structure, lot or other location where the applicant proposes to sell his, her or its goods, wares, products, business or services.
 - (8) If applying for a permit to engage in business as an itinerant vendor, the times each day during which said business is to be conducted.
 - (9) If applying for a permit to engage in business as an itinerant vendor who intends to sell from his or her vehicle or as a peddler, a valid and current registration for the vehicle to be used while engaging in business as a peddler or as an itinerant vendor. (The Town Clerk's office shall make a photo copy of such registration to keep with the application.)

- (10) If the applicant will be selling anything that requires weighing or measuring, a certificate from the Ontario County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
- (11) A certification that the applicant has not had a permit or license to engage in business as a peddler or an itinerant vendor refused, revoked or taken away by a municipality of the State of New York nor been found in violation of any New York State, county or local law relating to engaging in business as a peddler or an itinerant vendor.
- (12) A completed and signed request for information form from the Ontario County Sheriff's Office authorizing the Town to conduct a background investigation of the applicant and to obtain information pertaining thereto.

§ 109-6. Procedure upon filing application.

- A. Upon the filing with the Town Clerk of the permit application, permit fee, and all documents required by this chapter, the Town Clerk and Town Code Enforcement Officer may issue to the applicant a permit as provided in § 109-4, which such permit shall bear the signature of both the Town Clerk and the Town Code Enforcement Officer or, in either or both of their absences, the signature of one of their deputies.
- B. The Town Clerk and Town Code Enforcement Officer shall have six days to review the application and conduct background investigations and then either issue the permit or notify the applicant in writing that the application has been declined along with the reason for denial.
- C. The Town Clerk and/or the Town Code Enforcement Officer may decline an application for any of the following reasons:
 - (1) If the application is incomplete, the documentation required by this chapter was not included with the application or the full permit fee, in payment form acceptable to the Town Clerk, was not included with the application.
 - (2) If the person applying has had a permit or license to engage in business as a peddler or an itinerant vendor refused, revoked or taken away by the Town of Farmington or by any other municipality of the State of New York within the six months prior to the date of the application or been found in violation of any New York State, county or local law relating to engaging in business as a peddler or an itinerant vendor within the six months prior to the date of the application.
 - (3) If, in the opinion of the Town Clerk and/or the Town Code Enforcement Officer, declining the permit is necessary to protect the health, safety and welfare of the residents and/or businesses of the Town of Farmington.
- D. Permits issued pursuant to this chapter to engage in business as an itinerant vendor shall state the place where business is to be conducted and such business shall only be conducted at the place stated on the permit.
- E. Permits issued pursuant to this chapter shall state the dates the peddler or itinerant vendor may engage in such business.

- F. No peddler who has been issued a permit pursuant to this chapter shall commence any peddler activity earlier than 10:00 a.m. and no peddler who has been issued a permit pursuant to this chapter shall conduct any peddler activity past 7:00 p.m.
- G. No permit to engage in business as a peddler shall permit a peddler to engage in any peddler activity on any Sunday or national holiday.
- H. A permit is not assignable.
- I. No person to whom a permit has been issued under this chapter shall permit it to be used by any other person.
- J. No person shall use or conduct business pursuant to any permit issued to another person pursuant to this chapter.
- K. Whenever a permit shall be lost or destroyed, the Town Clerk shall, upon the peddler or itinerant vendor filing with the Town Clerk an affidavit setting forth the circumstances of the loss or destruction, issue a duplicate in lieu thereof under the original application, signed by both the Town Clerk and the Town Code Enforcement Officer, in which event the word "duplicate" shall be legibly written in ink across the face thereof. No additional fee shall be required.
- L. Any permit issued pursuant to this chapter shall only be valid for the dates set forth on the permit, and no person shall engage in business as a peddler or itinerant vendor on dates not specified on the permit.
- M. Every peddler and itinerant vendor shall display the permit while engaging in business as a peddler or itinerant vendor and shall make such permit available for inspection to anyone charged with enforcing this chapter and to any citizen requesting to inspect such permit.

§ 109-7. Exemptions.

Nothing in this chapter shall be held to apply to any of the following:

- A. Sales pursuant to statute.
- B. Sales conducted pursuant to the order by any Court.
- C. Any person selling personal property at wholesale to dealers or retailers in such articles.
- D. The sale of fruits and vegetables raised on the property where being sold.
- E. Any honorable discharged member of the United States Armed Forces who has procured a license under Article 4 of the General Business Law of the State of New York.
- F. Any person collecting or engaging in business as a peddler on behalf of i) any bona fide charitable, educational, scientific, health, religious or veterans' organization or ii) any other organization of worthy cause deemed to be in the public interest by separate resolution of the Town Board of the Town of Farmington.
- G. Any person selling tangible personal property at a sale held at his or her personal residence.
- H. Any person selling Christmas trees, provided that the Town Board of the Town of Farmington, by separate resolution, approves the location of such sales.

- I. Any person doing political campaigning for elections.
- J. Any person who goes onto a property, which is owned, operated or occupied by another person at the express invitation of such other person for the purpose of selling any goods, wares, products, business or services to such other person.
- K. Any person serving an established customer.
- L. Any canvasser or solicitor.

§ 109-8. Compliance with zoning provisions.

Chapter 165 (the Zoning Law of the Town of Farmington) of this Code shall apply to all permits granted under this chapter. The Town reserves the right to revoke any permit which violates Chapter 165, as amended.

§ 109-9. Reports by keepers of public accommodations.

The owner, proprietor or manager of any motel, hotel, boardinghouse, lodging house or rooming house [as such terms are defined in Chapter 165 (the Zoning Law of the Town of Farmington) of this Code] shall report, within six hours after renting, to the Town Code Enforcement Officer the name of any person who has rented a room or other space for the sale and display of goods, wares, products, business or services, giving the location of the room so rented.

§ 109-10. Enforcement.

The provisions of this chapter shall be enforced by the Ontario County Sheriff's Department, the New York State Police and/or the Town Code Enforcement Officer.

§ 109-11. Penalties for offenses.

- A. The Town Clerk and Town Code Enforcement Officer may, at any time, for a violation of this chapter, revoke any permit issued pursuant to this chapter. Notice of such revocation and the reason or reasons therefor, in writing, shall be served upon the person named in the application or by mailing the same to the address given in the application. The Town Clerk shall also provide a copy of such notice to the Ontario County Sheriff's Department, the New York State Police and/or the Town Code Enforcement Officer.
- B. Any person violating the provisions of this chapter shall be guilty of an offense as a disorderly person and, upon conviction thereof, shall be fined not less than \$100 nor more than \$250 for each offense and, further, shall be directed to obtain a permit pursuant to this chapter, paying the appropriate fee, which said fee shall include every day such person operated without a permit. Every day that a violation of this chapter shall continue shall constitute a separate and distinct offense.