

Chapter 163

PEDDLING AND SOLICITING

GENERAL REFERENCES

Farm stands — See Ch. 126.

§ 163-1. Title.

This chapter shall be known and may be cited as the "Peddling, Vending and Soliciting Law of the Town of Perinton."

§ 163-2. Applicability. [Amended 1-23-1985 by L.L. No. 1-1985]

This chapter shall apply to the entire area of the Town of Perinton, excluding the area within the corporate limits of the Village of Fairport.

§ 163-3. Purpose.

This chapter is enacted for the purpose of regulating itinerant merchandising and soliciting in order that the peace, health, safety, welfare and good order of the Town and its inhabitants shall not be endangered or unduly disturbed.

§ 163-4. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A permanent building, store, premises or depository in or on which or where the person transacts business and deals in the goods, wares or commodities he peddles, vends or solicits in the ordinary and regular course of business.[Amended 7-23-2003 by L.L. No. 2-2003]

MERCHANDISING — The selling, bartering or trading of, or offering to sell, barter or trade, any goods, wares, commodities or services.

PEDDLER, VENDOR and SOLICITOR — Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services, or solicits contributions of goods or moneys, by going from house to house, place of business to place of business, or in any public street or public place or by temporarily occupying a room, building or other premises therefor.

PERSON — Includes any individual, firm, partnership, corporation, unincorporated association and principal or agent thereof.

TEMPORARY OCCUPANCY — A store, room, building, tent, enclosure, premises or structure of any kind intended to be occupied for the period of time necessary to peddle, vend or solicit the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact, and

the burden of proving such intent shall be upon the defendant in such prosecution. **[Amended 7-23-2003 by L.L. No. 2-2003]**

§ 163-5. License required.

It shall be unlawful for any person within the jurisdiction of this chapter to act as a peddler, vendor or solicitor, as herein defined, without first having obtained and paid for, and having in force and effect, a license therefor.

§ 163-6. Exemption; nonapplicability.

A. The provisions of this chapter shall not apply to the following:

- (1) An honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military services of the United States and who has procured a license from the Monroe County Clerk as provided by the General Business Law of the State of New York, but no such person shall engage in any of the occupations specified in this chapter without first having been issued a license by the Town Clerk.
- (2) Any person soliciting on residential property at the express invitation of the person solicited, serving an established customer or for the purpose of providing product to a not-for-profit organization. **[Amended 11-20-2002 by L.L. No. 6-2002]**
- (3) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town.
- (4) A truck gardener or farmer who himself or through his employees vends, sells or disposes of products of his own farm or garden.
- (5) A child regularly attending any public or parochial or private school located within the Town of Perinton or a representative of any established church maintaining a place of worship within the Town, or a member of a veterans' organization, provided that such organization has and maintains a chapter, post lodge, camp or other group within the Town of Perinton, or a member of a fraternal organization or civic group, provided that such fraternal organization or civic group maintains a chapter or local organization within the Town of Perinton, and further provided that any person coming within the provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the organization of which he is a member or the school which he attends.
- (6) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.
- (7) Nonprofit organizations and persons working for such organizations, provided that such organizations register at least once every 12 months with the Town Clerk, in the event that they plan to engage in vending, peddling or soliciting, and they shall specify the type of activity to be undertaken, the time or period when such activity shall be undertaken and shall provide their representatives with proper identification which must be exhibited upon demand and shall provide proof of their nonprofit status to the Town Clerk. **[Added 1-23-1985 by L.L. No. 1-1985]**

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

§ 163-7. Licensing procedures. [Amended 2-9-2000 by L.L. No. 1-2000]

- A. Every applicant for a license is required to submit to the Town Clerk a written application supplying, under oath, the following information:
- (1) Name of applicant.
 - (2) Permanent home residence.
 - (3) Name and address of firm represented, if any.
 - (4) The length of time for which the license is required.
 - (5) A description of the goods, wares or commodities to be offered for sale, together with a true invoice of their amount, quality and value.
 - (6) All felonies or misdemeanors with which the applicant has been charged and the disposition of each such charge.
 - (7) To the application must be appended a letter of authorization from the firm which the applicant purports to represent.
- B. If the applicant has one or more employees who will work in the Town, the same information must be supplied as to each employee.
- C. A license may be refused to the applicant if the applicant shall have been convicted of a misdemeanor or felony, or past violations of Town ordinances, which, in the judgment of the Town Clerk, renders the applicant unfit or undesirable to carry on the occupation of peddling or soliciting.
- D. The Town Clerk may conduct an investigation into the applicant's background to enable the Clerk to determine the advisability of issuing a peddler's license to the applicant. The Town Clerk shall have a minimum period of two weeks to conduct said investigations; however, the issuance of a license may be delayed for a longer period if the Town Clerk cannot, for good reason, complete the investigation in a timely manner within the two-week period.
- E. If the applicant is requesting regular or recurring occupancy of a site instead of temporary occupancy, as defined in § 163-4, then the Town Clerk shall refer such application to the Zoning Board of Appeals for a special use permit. The Zoning Board of Appeals shall apply the criteria set forth in § 208-54 of the Perinton Code to these permit requests.

§ 163-8. Issuance of license; nontransferability; display.

Upon receipt of the application and 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 and the location wherein it may be conducted. This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any Town official, prospective buyer, police officer or sheriff.

§ 163-9. Records; expiration of license.

- A. The Town Clerk shall keep a record of the applications, the determinations thereon and of all licenses issued in accordance with this chapter. The record shall contain the name and residence of the person licensed, the location of the business, the amount of the license fee paid and the date of revocation of all licenses revoked.
- B. All licenses hereunder shall expire on the first day of January following the date of issuance thereof.

§ 163-10. License fees. [Amended 1-23-1985 by L.L. No. 1-1985; 12-10-1997 by L.L. No. 6-1997]

The fees for all licenses shall be as set from time to time by the Town Board.

§ 163-11. Restrictions.

A licensed peddler, vendor or solicitor shall:

- A. Not willfully misstate the quantity or quality of any article offered for sale.
- B. Not willfully offer for sale any goods, wares or merchandise which is unwholesome or unsafe or defective in any way, unless clearly identified as defective and sold as defective or damaged goods, wares or merchandise. **[Amended 1-23-1985 by L.L. No. 1-1985]**
- C. Not call attention to his goods by blowing a horn, by ringing a bell other than a house doorbell, by shouting or crying out or by any loud or unusual noise.
- D. Not frequent any street in an exclusive manner so as to cause a private or public nuisance.
- E. Keep the vehicle and/or receptacles used by him in the furtherance of his licensed business in a sound, clean and sanitary condition.
- F. Keep edible articles offered for sale well-protected from dirt, dust and insects.
- G. Not stand or permit the vehicle used by himself, his agent or employee or his cart or other appliance for the display of his goods, wares or merchandise to stand in any public place, street or right-of-way in such a manner as to obstruct vehicular or pedestrian traffic or to obstruct the line of vision of such traffic so as to create a substantial risk of harm or risk to the safety of others. **[Amended 1-23-1985 by L.L. No. 1-1985]**
- H. Not occupy the same location as another peddler, vendor or solicitor in such manner as to unreasonably interfere with the flow of traffic or create a substantial risk of harm or risk to the safety of others. **[Added 1-23-1985 by L.L. No. 1-1985]**
- I. Not sell confections or ice cream within 1,250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days. **[Amended 1-23-1985 by L.L. No. 1-1985]**
- J. Not enter upon private property for the purpose of peddling, vending or soliciting before the hour of 9:00 a.m. of any day or after the hour of 9:00 p.m. of any day, except upon the invitation of the property owner or lawful occupant. **[Added 1-23-1985 by L.L. No. 1-1985]**
- K. Not enter upon private property for the purpose of peddling, vending or soliciting where there is any sign on display to the public view prohibiting such activity. **[Added 1-23-1985 by L.L. No. 1-1985]**

- L. Not offer any goods, wares or merchandise for sale after sundown if he or she is located in a stationary area. **[Added 1-23-1985 by L.L. No. 1-1985]**
- M. Not litter or suffer littering in or near his or her stationary location. **[Added 1-23-1985 by L.L. No. 1-1985]**
- N. Not place his or her stationary location at any place unless the Commissioner of Public Works finds such location to be appropriate after taking into consideration traffic and safety factors. **[Added 1-23-1985 by L.L. No. 1-1985]**

§ 163-12. Revocation of license.

- A. Licenses issued under provisions of this chapter may be revoked by the Town Clerk of the Town of Perinton after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or any false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler, vendor or solicitor.
 - (3) Any violation of this chapter.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
 - (5) Conducting the business of peddling 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.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint, and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for the hearing.
- C. The Town Clerk, upon receiving information giving him reasonable cause to believe that the holder of any license issued hereunder has violated any provision of this chapter or has been convicted of any violation referred to in this section, or indicted or charged with or for any crime or offense, or has been convicted of any crime or offense, may forthwith temporarily suspend such license until a hearing is held by him, as provided herein, and the Town Clerk shall have issued his determination thereon.
- D. If the licensee has one or more employees, the revocation hereunder shall apply to the licensee and all employees if either he or any one or more of his employees are determined to be in violation of this chapter.

§ 163-13. Appeals.

Any person aggrieved by the action of the Town Clerk in the denial of an application for a license, as provided in § 163-7 of this chapter, or in the decision of the Town Clerk with reference to the revocation of a license, as provided in § 163-12 of this chapter, shall have the right to appeal to the Town Board of the Town of Perinton. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed 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 at his last known address at least five 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.

§ 163-14. Penalties for offenses. [Amended 12-10-1997 by L.L. No. 6-1997]

Any person who shall act as a peddler, vendor or solicitor, as herein defined, without a license, or who shall violate any of the provisions of this chapter, or who shall continue to act as peddler, vendor or solicitor subsequent to the revocation of his license shall be punishable pursuant to Chapter 115, Enforcement Procedures.